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Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., Memphis, Tenn., and Los Angeles, Calif., see announcement in the Reader Aids Section at the end of this issue.

17636 **Elementary and Secondary Education Grants** HEW/OE gives notice of intent to compromise a Title I, ESEA audit claim against New Jersey Department of Education; comments by 5-5-80

17640 **Public Housing Modernization Program** HUD/FHC announces proposal to set aside Fiscal Year 1980 Funds for rehabilitation of larger, rental public housing projects

17702 **Impact of Community Environments on Supervised Offenders** Justice/NIJ announces competitive research grant/cooperative agreement; apply by 4-24-80

17924-17932 **Credit Restraint** FRS issues rules setting reserve requirements for banks, certain creditors, and money market funds; and imposing certain interest rate limitations; effective 3-14, 3-20, and 4-3-80 (Part IX of this issue) (5 documents)

17571 **Pyramid Lake Paiute Tribe** Interior/BIA issues regulations establishing procedures to govern preparation of roll of persons eligible to share in distribution of funds; apply by 7-17-80

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Highlights

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17870 **Day Care** HEW/Sec'y issues final regulations on conditions that day care services provided to children outside of their own homes must meet in order to qualify for HEW funds; effective 9-19-80 (Part V of this issue)

17894 **Medicare and Medicaid Programs** HEW/HCFA proposes to establish uniform method for hospitals participating in programs to report cost and volume of services; comments by 5-28-80 (Part VII of this issue)

17633 **Multicandidate Political Committees** FEC publishes comprehensive index

17590 **Nonimmigrant Students** Justice/INS proposes to revise regulations pertaining to nonimmigrant "F-1" students in the United States; representations by 5-19-80

17595 **Loans for Housing for the Elderly and Handicapped** HUD/Sec'y gives notice of transmittal of proposed rule to Congress

17710 **VA's Home Loan Program** VA is finalizing policies on participation of fee appraisers and compliance inspectors; effective 3-13-80

17593 **Child-Protection Packaging Requirements** CPSC proposes exemption for sodium fluoride drug preparations; comments by 5-19-80

17914-17915 **Motor Vehicle Exhaust Standards** EPA establishes carbon monoxide standards for 1981 model year light-duty vehicles belonging to certain Chrysler Corporation engine families; effective 3-31-80 (Part VIII of this issue) (2 documents)

17573 **Excise Tax** Treasury/IRS issues regulations relating to extension of maximum duration period of blanket exemption certificates for purchases of various items otherwise subject to tax; effective for sales made after 12-31-58

17715 **Sunshine Act Meeting**

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 720

Availability of Information; Public Observation of Board Meetings; Government in the Sunshine Act

AGENCY: National Credit Union Administration.

ACTION: Final Rule.

SUMMARY: In accordance with 5 U.S.C. 552b(g), the National Credit Union Administration adopts rules to implement the open meeting provisions of the Government in the Sunshine Act (5 U.S.C. 552b (b) through (f)). These rules govern the public observation of Board meetings and the availability of information regarding the decision-making process of the Board.

EFFECTIVE DATE: April 18, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Beatrix D. Fields, Attorney-Adviser, at the same address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: As the result of establishing a three member Board, the National Credit Union Administration (NCUA) became subject to the open meeting provisions of the "Government in the Sunshine Act" (Pub. L. 94–409, 5 U.S.C. 552b (b) to (f), hereinafter referred to as the "Sunshine Act" or the "Act") on September 4, 1979. Section (g) of 5 U.S.C. 552b requires that agencies who are subject to the Sunshine Act promulgate regulations to implement the open meeting provisions of the Sunshine Act. However, section (g) also requires that prior to the promulgation of implementing regulations, agencies must consult with the Office of the Chairman of the Administrative Conference of the United States (ACUS) and publish in the **Federal Register** notice of its proposed regulations with an opportunity for public comment. NCUA has consulted with the ACUS and has published proposed Sunshine Act regulations for public comment (45 FR 7596, February 4, 1980). No public comments were received. Therefore, NCUA hereby promulgates final regulations to implement the open meeting provisions of the Sunshine Act.

By the National Credit Union Administration Board on March 13, 1980.

Rosemary Brady,
Secretary of the Board.

Accordingly, Subpart C is added to Part 720 as follows:

PART 720—AVAILABILITY OF INFORMATION

Subpart C—Public Observation of Board Meetings Under 5 U.S.C. 552b

Sec.

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720.41 Definitions.
720.42 Open meetings.
720.43 Exemptions.
720.44 Public announcement of meetings.
720.45 Regular procedure for closing meeting discussions or limiting the disclosure of information.
720.46 Requests for open meetings.
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720.48 Maintenance of meeting records.
720.49 Public availability of meeting records and other documents.

Authority: Sec. 3(g), 90 Stat. 1241 (5 U.S.C. 552b(g); sec. 120, 73 Stat. 635 (12 U.S.C. 1766); and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

Subpart C—Public Observation of Board Meetings Under 5 U.S.C. 552b

§ 720.40 Scope and purpose.

(a) This subpart contains the regulations of the National Credit Union Administration implementing subsections (b) through (f) of 5 U.S.C. 552b as required by the Sunshine Act, Pub.L. 94–409. The primary purpose of these regulations will be to provide the public with the fullest access, authorized by law, to the deliberations and decisions of the Board while protecting the rights of individuals and preserving the ability of the agency to carry out its responsibilities.

§ 720.41 Definitions.

For the purposes of this subpart:

(a) "Agency" means the National Credit Union Administration.

(b) "Board" means the National Credit Union Administration Board, whose members are appointed by the President with the advice and consent of the Senate.

(c) "subdivision of the Board" means a group composed of two Board members authorized by the Board to act on behalf of the agency.

(d) "meeting" means any deliberations by two or more members of the Board or any subdivision of the Board that determine or result in the joint conduct or disposition of official agency business with the exception of: (1) Deliberations to determine whether a meeting or a portion thereof will be open or closed to public observation and whether information regarding closed meetings will be withheld from public disclosure; (2) deliberations to determine whether or when to schedule a meeting; and (3) infrequent dispositions of official agency business by sequential circulation of written recommendations to individual Board members ("notation voting procedure"): *Provided,* The votes of each Board member and the action taken are recorded for each matter and are publicly available, unless exempted from disclosure pursuant to 5 U.S.C. 552 (the Freedom of Information Act).

(e) "Public observation" means that a member or group of the public may listen to and observe any open meeting and may record in an unobtrusive manner any portion of that meeting by use of a camera or any other electronic device, but shall not participate in any meeting unless authorized by the Board.

(f) "Public announcement" or "publicly announce" means making reasonable efforts under the particular circumstances to fully inform the public, especially those individuals who have expressed interest in the subject matters to be discussed or the decisions of the agency.

(g) "Sunshine Act" means the open meeting provisions of the "Government in the Sunshine Act", Pub. L. 94–409, 5 U.S.C. 552b (b) to (f).

§ 720.42 Open Meetings.

Except as provided in § 720.43(a), any portion of any meeting of the Board shall be open to public observation. The Board and any subdivision of the Board, shall jointly conduct official agency business only in accordance with this subpart.

§ 720.43 Exemptions.

(a) Under the procedures specified in § 720.45, the Board may close a meeting or any portion of a meeting from public observation or any withhold information pertaining to such meetings as otherwise required to be disclosed: *Provided,* The Board has properly determined that the public interest does not require otherwise and that the meeting (or any portion thereof) or the disclosure of meeting information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact properly classified pursuant to such Executive Order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than Section 552 of Title 5 of the United States Code, the Freedom of Information Act): *Provided,* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by a Federal agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of Federal agencies responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) Be likely to (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution, or (ii) be likely to significantly frustrate implementation of a proposed action, except that this subparagraph shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition of a particular case of formal agency adjudication pursuant to the procedures in Section 554 of Title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing. (b) Prior to closing a meeting whose discussions are likely to fall within the exemptions listed in paragraph (a) of this section, the Board will balance the public interest in observing the deliberations of an exemptible matter and the agency need for confidentiality of the exemptible matter. In weighing these interests, the Board is assisted by the General Counsel as provided in § 720.47, by expressions of the public interest set forth in requests for open meetings as provided by § 727.46(b), and by the brief staff analysis of public interest which will accompany each staff recommendation that an agenda item be considered in a closed meeting.

§ 720.44 Public Announcement of Meetings.

(a) Except as otherwise provided in this section the Board shall, for each meeting, make a public announcement, at least one week in advance of the meeting, of the time, place and subject matter of the meeting, whether it will be open or closed to public observation and the name and telephone number of the Secretary of the Board or the person designated by the Board to respond to requests for information about the meeting.

(b) Advance notice is required unless a majority of the members of the Board determine by a recorded vote that agency business requires that a meeting be called at an earlier date, in which case, the information to be announced in paragraph (a) of this section shall be publicly announced at the earliest practicable time.

(c) A change, including a postponement or a cancellation, in the time or place of a meeting after a published announcement may be made only if announced at the earliest practicable time.

(d) A change in or deletion of the subject matter of a meeting or any portion of a meeting or a redetermination to open or close a meeting or any portion of a meeting after a published announcement may be made only if (1) a majority of the Board determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible and (2) public announcement of the change and of the vote of each member on such change shall be made at the earliest practicable time.

(e) Each meeting announcement or amendment thereof shall be posted on the Public Notice Bulletin Board in the reception area of the agency headquarters and may be made available by other means deemed desirable by the Board. Immediately following each public announcement required by this section, the stated information shall be submitted to the **Federal Register** for publication.

(f) No announcement shall contain information which is determined to be exempt from disclosure under § 720.43(n).

(g) The agency shall maintain a mailing list of names and addresses of all persons who wish to receive copies of agency announcements of meetings open to public observation and amendments to such announcements. Requests to be placed on the mailing list should be made by telephoning or by writing to the Secretary of the Board.

§ 720.45 Regular procedure for closing meeting discussions or limiting the disclosure of information.

(a) A decision to close any portion of a meeting and to withhold information about any portion of a meeting closed pursuant to § 720.43(a) will be taken only when a majority of the entire Board votes to take such action. In deciding whether to close a meeting or any portion of a meeting or to withhold information, the Board shall independently consider whether the public interest requires an open meeting. A separate vote of the Board will be taken and recorded for each portion of a meeting to be closed to public observation pursuant to § 720.43(a) or to withhold information from the public pursuant to § 720.43(a). A single vote may be taken and recorded with respect to a series of meetings, or any portions

of meetings which are proposed to be closed to the public, or with respect to any information concerning the series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. No proxies shall be allowed.

(b) Any person whose interests may be directly affected by any portion of a meeting for any of the reasons stated in subparagraph (5), (6), or (7) of § 720.43(a), may request that the Board close such portion of the meeting. After receiving notice of a person's desire for any specified portion of a meeting to be closed, the Board, upon a request by one member, will decide by recorded vote whether to close the relevant portion or portions of the meeting. This procedure applies to requests received either prior or subsequent to the announcement of a decision to hold an open meeting.

(c) Within one day after any vote is taken pursuant to paragraph (a) or (b) of this section, the Board shall make publicly available a written copy of the vote taken indicating the vote of each Board member. Except to the extent that such information is withheld and exempt from disclosure, for each meeting or any portion of a meeting closed to the public, the Board shall make publicly available within one day after the required vote, a written explanation of its action, together with a list of all persons expected to attend the closed meeting and their affiliation. The list of persons to attend need not include the names of individual staff, but shall state the offices of the agency expected to participate in the meeting discussions.

§ 720.46 Requests for open meetings.

(a) Following any announcement that the Board intends to close a meeting or any portion of any meeting, any person may make a written or telegraphic request to the Secretary of the Board that the meeting or a portion of a meeting be open. The request shall be circulated to the members of the Board, and the Board, upon the request of one member, shall reconsider its action under § 720.45 before the meeting or before discussion of the matter at the meeting. If the Board decides to open a portion of a meeting proposed to be closed, the Board shall publicly announce its decision in accordance with Section 720.44(c). If no request is received from a Board member to reconsider the decision to close a meeting or portion thereof prior to the meeting discussion, the Chairman of the Board shall certify that the Board did not request reconsideration of its decision to close the discussion of the matter.

(b) The request to open a portion of a meeting shall be submitted to the Secretary of the Board in advance of the meeting in question. The request shall set forth the requestor's interest in the matter to be discussed and the reasons why the requestor believes that the public interest requires that the meeting or portions thereof be open to public observation.

(c) The submission of a request to open a portion of a meeting shall not act to stay the effectiveness of Board action or to postpone or delay the meeting unless the Board decides otherwise.

(d) The Secretary of the Board shall advise the requestor of the Board's consideration of the request to open a portion of the meeting as soon as practicable.

§ 720.47 General Counsel certification.

For each meeting or any portion of a meeting closed to public observation under § 720.45, the General Counsel shall publicly certify, whether in his or her opinion, the meeting or portion thereof may be closed to public observation and shall state each relevant exemptive provision of law. A copy of the certification together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained as a part of the permanent meeting records. As part of the certification, the General Counsel shall recommend to the Board whether the public interest requires that the meeting or portions thereof proposed to be closed to public observation be held in the open.

§ 720.48 Maintenance of meeting records.

(a) Except in those circumstances which are beyond the control of the agency, the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or any portion thereof, closed to public observation. However, for meetings closed under subparagraph (8), (9)(A)(i), or (10) of § 720.43(a), the Board shall maintain either a transcript, a recording or a set of minutes. The Board shall maintain a complete electronic recording for each open meeting or any portion thereof. All records shall clearly identify each speaker.

(b) A set of minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for taking such action. Minutes shall also include a description of each of the views expressed by each person in attendance on any item and the record of any roll call vote, reflecting the vote of each member. All documents considered in connection with any action shall be identified in the minutes.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes or a complete electronic recording of each meeting or any portion of a meeting, closed to public observation, for at least two years after such meeting or until one year after the conclusion of any agency proceeding with respect to which the meeting or any portion was held; whichever occurs later. The agency shall maintain a complete electronic recording of each open meeting for at least three months after the meeting date. A complete set of minutes shall be maintained on a permanent basis for all meetings.

§ 720.49 Public availability of meeting records and other documents.

(a) The agency shall make promptly available to the public, in the Public Reference Room, the transcript, electronic recording or minutes of any meeting, deleting any agenda item or any item of the testimony of a witness received at a closed meeting which the Board determined, pursuant to paragraph (c) of this section, was exempt from disclosure under § 720.43(a). The exemption or exemptions relied upon for any deleted information shall be reflected on any record or recording.

(b) Copies of any transcript, minutes or transcription of a recording, disclosing the identity of each speaker, shall be furnished to any person requesting such information in the form specified in paragraph (a) of this section. Copies shall be furnished at the actual cost of duplication or transcription unless waived by the Secretary of the Board.

(c) Following each meeting or any portion of a meeting closed pursuant to § 720.43(a), as the last item of business, the Board shall determine which, if any, portions of the meeting transcript, electronic recording or minutes not otherwise available under 5 U.S.C. 552a (Privacy Act), contain information which should be withheld pursuant to § 720.43(a): *Provided, however,* That should the Board not make such determinations immediately following any such closed meeting, the Secretary of the Board, upon the advice of the General Counsel or the General Counsel's designee and after consulting with the Board, shall make such determinations. If at a later time, the Board determines that there is no further justification for withholding any meeting

record or other item of information from the public which has previously been withheld, then such information shall be made available to the public.

(d) Except for information determined by the Board to be exempt from disclosure pursuant to paragraph (c) of this section, meeting records shall be promptly available to the public in the Public Reference Room. Meeting records include but are not limited to: The transcript, electronic recording or minutes of each meeting, as required by § 720.48(a); the notice of requirements of § 720.44 and 720.45(c); and the General Counsel Certification along with the presiding officer's statement, as required by § 720.47.

(e) These provisions do not affect the procedures set forth in this Part 720, Subpart A governing the inspection and copying of agency records, except that the exemptions set forth in § 720.43(a) of this subpart and in 5 U.S.C. 552b(c) shall govern in the case of a request made pursuant to this Part 720, Subpart A to copy or inspect the meeting records described in this section. Any documents considered or mentioned at Board meetings may be obtained subject to the procedures set forth in this Part 720, Subpart A.

[FR Doc. 80-8399 Filed 3-18-80; 8:45 am]
BILLING CODE 7530-01-M

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12 CFR Part 722

Rules of Board Procedure; Final Rulemaking

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Rule.

SUMMARY: As a result of Pub. L. 95-630, NCUA was restructured from management by a single administrator to governance by a three member Board ("NCUA Board"). Since the NCUA Board is a new form of management for the agency, new Part 722 is being added to set forth rules on how the new Board will transact its business.

EFFECTIVE DATE: April 18, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Beatrix D. Fields, Attorney-Adviser, Office of General Counsel, at the above address or telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION: Since the National Credit Union Administration Board ("Board") was a new form of management for the National Credit Union Administration (NCUA), it adopted at its first scheduled meeting, September 14, 1979, rules governing how it will transact its business.

The FCU Act is silent as to the details of how the Board shall manage itself. Section 102(d) of the FCU Act (12 U.S.C. 1752a(d)) provides that the Board "shall adopt such rules as it sees fit for the transaction of its business." This provision does not require the Board to adopt rules for the transaction of its business, but rather grants the discretion to adopt any rules "as it sees fit." The Sunshine Act (5 U.S.C. 552b) requires the Board to adopt rules implementing the open Board meeting provisions of that Act, and the previously submitted Sunshine Act Policy Statement forms the basis for these rules (Proposed Sunshine Act Rules, 45 FR 7596, Feb. 4, 1980). Those procedural rules not addressed by the Sunshine Act rules were adopted as rules of Board procedure and are set forth in the new Part 722.

The issues and recommendations adopted by the Board for its rules of procedure concern the exercise of the Board's authority to act on behalf of NCUA (quorum and voting requirements, use of proxies, and notation voting), the conduct of meetings (role of the presiding officer, scheduling of meetings, the agenda), and the recording of Board action. These rules of procedure are internal rules for conducting Board business.

The rules of procedure of the NCUA Board as set forth in Part 722 are rules of agency procedure. Such rules of agency procedure are exempt from the public notice and comment requirements of rulemaking by 5 U.S.C. 553(b)(A). In addition, such rules relating to agency management are exempt from the procedural requirements of NCUA's Final Report implementing E.O. 12044. The agency official responsible for this interpretation is Robert Fenner, Assistant General Counsel, Office of the General Counsel. Therefore, new Part 722 is being published as a final rule.

By the National Credit Union Administration Board, Effective March 13, 1980.

Rosemary Brady,
Secretary of the Board.

Accordingly, a new Part 722 is added to set forth the Rules of Board Procedure:

PART 722—RULES OF BOARD PROCEDURE

Sec.

722.1 Scope.
722.2 Number of votes required for Board action.
722.3 Voting by proxy.
722.4 Methods of acting.
722.5 Scheduling of Board meetings.
722.6 Subject matter of a meeting.

Authority: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

§ 722.1 Scope.

The rules contained in this part are the rules of procedures governing how the Board will conduct its business. These regulations concern the exercise of the Board's authority to act on behalf of NCUA, the conduct of Board meetings and the recording of Board action.

§ 722.2 Number of votes required for board action.

The agreement of at least two of the three Board members is required for action by the Board.

§ 722.3 Voting by proxy.

Proxy voting shall not be allowed at meetings of the Board.

§ 722.4 Methods of acting.

(a) *Notation voting.* Notation voting is the circulation of written memoranda and voting sheets to each Board member and the tabulation of the responses.

(1) *Matters that may be decided by Notation Voting.* Notation voting may be used only for routine matters, which normally will not include decisions on proposed and final rules, adjudications, and formal Board interpretations and policy statements.

(2) *Tallying Votes.* Tally sheets will be used which provide for approval with suggested administrative changes. The Secretary of the Board has administrative responsibility over notation voting, including the authority to establish deadlines for voting, receive tally sheets, count votes, and determine whether suggested administrative changes require recirculation.

(3) *Veto and Effect of Failure to Vote.* In view of the public policy for openness reflected in the Sunshine Act: (i) Each Board member is authorized to veto the use of notation voting for the consideration of any particular matter, and thus require that the matter be placed on the agenda of a Board meeting; and (ii) The failure by any Board member to respond to a notation vote within the prescribed time frame is to be treated as an indication that the matter be considered at a Board meeting.

(4) *Disclosure of Results.* A record is to be maintained of Board transactions by use of the notation voting procedure. Public disclosure of this record is determined by the provisions of the Freedom of Information Act (5 U.S.C. 552).

(b) *Board Meetings*—(1) *Applicability of the Sunshine Act.* The Government in the Sunshine Act (Pub. L. 94-409, 5

U.S.C. 552b, "Sunshine Act") requires that joint deliberations of the Board be held in accordance with its open meeting provisions (5 U.S.C. 552b(b) to (f)). Procedural rules for scheduling a meeting and determining the subject matter of a meeting are discussed within this part.

(2) *Presiding Officer.* The Chairman is the presiding officer, and, in the Chairman's absence, the designated Vice Chairman shall preside. The presiding officer shall make procedural rulings with the right of the objector to request a Board ruling.

§ 722.5 Scheduling of board meetings.

(a) *Meeting Calls*—(1) *Regular Periodic Meetings.* The Board will hold regular periodic meetings on Thursdays each week unless there is no business or a quorum is not available. The Secretary of the Board will coordinate the dates for meetings not scheduled on Thursday.

(2) *Special Meetings.* The Chairman shall call special meetings either on the Chairman's own initiative or at the request of any Board member.

(b) *Notice of Meetings*—(1) *Notifying the Public.* The Sunshine Act sets forth the procedures for notifying the public of Board meetings.

(2) *Notifying Board Members*—(i) *Special Meetings.* Except in cases of emergency as determined by a majority of the Board, each Board member is entitled to receive notice of any special meeting at least twenty-four hours in advance of such meeting. The notice shall set forth the place, day, hour and nature of business to be transacted at the meeting. The appearance by a Board member at a special meeting shall constitute waiver of notice, unless the Board member specifies that the appearance is solely for the purpose of objecting to lack of proper notice. (ii) *Regular Periodic Meetings.* Each Board member is entitled to receive notice of the agenda and/or notice of any changes in the subject matter of such meetings concurrent with the public release of such notices under the Sunshine Act. Each Board member shall be entitled to at least twenty-four hours advance notice of the consideration of a particular subject matter, except in cases of emergency as determined by a majority of the Board.

§ 722.6 Subject matter of a meeting.

(a) *Proposed Agenda.* The Chairman shall be responsible for initially determining each meeting agenda.

(b) *Submission of Agenda Items.* Agenda items may be submitted to the Secretary of the Board by each Board member, the Executive Staff (which includes all Office Directors and President of the Central Liquidity Fund), and Regional Directors.

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BILLING CODE 7535-01-M

INTERNATIONAL COMMUNICATION AGENCY

22 CFR Parts 502, 503, 504, 505

Authority Delegations, Organization, and Privacy Act Policies and Procedures; Miscellaneous Amendments

AGENCY: International Communication Agency.

ACTION: Final rule.

SUMMARY: The International Communication Agency amends its general regulations relating to delegations of authority, organization, and privacy. These amendments will update the regulations to reflect organizational changes, office moves, and minor editorial corrections.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Jane S. Grymes, Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency, Washington, D.C. 20547, AC 202-523-4308.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of the Director of the International Communication Agency set forth in Reorganization Plan No. 2 of 1977, 22 CFR, Chapter V is amended as follows:

PART 502—WORLDWIDE FREE FLOW (EXPORT-IMPORT) OF AUDIO-VISUAL MATERIALS

Section 502.2 is amended to add paragraph (d):

§ 502.2 Implementing statute and Executive order.

* * * * *

(d) Pub. L. 89-632 further provides:

"It shall be the duty of the Federal agency or agencies so designated to take appropriate measures for the carrying out of the provisions of the Agreement including the issuance of regulations.

"Sec. 2. Agencies of the Federal Government are authorized to furnish facilities and personnel for the purpose of assisting the agency or agencies designated by the President in carrying out the provisions of the Agreement."

PART 503—AVAILABILITY OF RECORDS

In § 503.3 the second and third listings on the chart are revised to read as follows:

§ 503.3 Places at which forms and instructions for use by the public may be obtained.

Subject matter	Office	Address
* * *	* * *	* * *
Contracts and Procurement	Contract and Procurement Division, Office of Administrative Services.	1717 H Street NW., Washington, D.C. 20547.
Application for employment, domestic service	Employment Br., Office of Personnel Services.	1776 Pennsylvania Ave. NW., Washington, D.C. 20547.
* * *	* * *	* * *

In § 503.5(b), first sentence is revised to read as follows:

§ 503.5 Availability of final opinions, orders, policies, interpretations, manuals and instructions.

* * * * *

(b) *Current Index.* The Management Analysis/Regulations Staff, Associate Directorate for Management, 1425 K Street, N.W., Washington, D.C., will maintain and make available on Agency premises for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted or promulgated after July 4, 1967, and required by this section to be made available or published. * * *

In § 503.6(b)(4), the third sentence is revised to read as follows:

§ 503.6 Availability of Agency records.

* * * * *

(b) * * *

(4) * * * On the expiration of the time limit the Office of Congressional and Public Liaison shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched and of his/her right to treat the delay as a denial and of his/her right to appeal. * * *

PART 504—ORGANIZATION

§ 504.2 [Amended]

In § 504.2(b), the second sentence is revised to read as follows:

* * * * *

(b) * * *. The Reorganization Plan abolished the U.S. Advisory Commission on Information and the U.S. Advisory Commission on International

Educational and Cultural Affairs and established the U.S. Advisory Commission on International Communication, Cultural, and Educational Affairs whose name was subsequently changed to the United States Advisory Commission on Public Diplomacy by Section 604 of the Department of State Authorization Act, Fiscal Years 1980–1981 (93 Stat. 399, August 15, 1979).

* * * * *

§ 504.2 [Amended]

In § 504.2(c), the last full sentence is revised to read as follows:

* * * * *

(c) * * *. The International Communication Agency operates field posts in 127 foreign countries.

* * * * *

§ 504.2 [Amended]

In § 504.2(d)(1)(i)(3), the second paragraph is revised to read as follows:

* * * * *

(d) * * *

(i) * * *.

(3) * * * VOA produces and broadcasts radio programs in English and 38 foreign languages, and operates broadcasting and relay facilities to transmit these programs.

§ 504.2 [Amended]

Section 504.2(d)(1)(ii) is amended to read as follows:

* * * * *

(d) * * *

(1) * * *

(ii) The Associate Directorate for Programs is comprised of three small specialized staffs, two foreign press centers, and five major offices and services, all reporting directly to the Associate Director. The Evaluation Staff performs followup for the Agency's inspection activities and evaluates the extent to which media products reflect the Agency's subject priorities. The Planning and Guidance Staff provides both fast daily and in depth background guidance for operating elements of the Agency on those U.S. foreign policy issues which are susceptible to public diplomacy and on those domestic concerns which are relevant to the conduct of it, reviews program proposals of the Agency's overseas posts and Washington elements to assure that they are consistent with agreed-upon policy and that resources are allocated in accordance with priorities, and represents USICA in interagency meetings on public affairs issues. The International Communication Policy Staff develops options and policy recommendations over the entire range of international communication policy issues for the Director of USICA and for the consideration of the U.S. Government as a whole. Foreign Press Centers in New York and Washington provide facilitative services to foreign journalists working in those cities. The Office of Program Coordination and Development coordinates the design and implementation of all Agency support for major communication projects proposed by the Agency's overseas posts or undertaken by it in response to worldwide and regional priorities set by the Director, recruits American participants for those projects, and develops a systematic aggregation of essential resource materials to guide the acquisition and production of media support for them. This Office also is responsible for the development and coordination of the Agency's arts initiative undertaken through an agreement with the National Endowments, including recruitment and scheduling of all fine arts exhibitions and performing artists and groups for overseas programming. The Office of Research combines the functions of research, foreign media reaction reporting, and the Agency library. The three media services—Exhibits, Press and Publications, and Television and Film—are responsible for the acquisition and production of a variety of media products for use or adaptation by USICA's overseas posts. These include exhibits in various formats; a daily wireless bulletin to all posts, magazines, pamphlets, reprints, photographs, and picture stories; and motion pictures, television programs, and videotape recordings for direct viewing. The media services also operate printing plants at two overseas locations and provide facilitative services to foreign TV production teams.

* * * * *

Section 504.2(d)(1)(iii) is amended to read as follows:

* * * * *

(d) * * *

(1) * * *

(iii) The Associate Directorate for Educational and Cultural Affairs (ECA) is composed of four major offices. The Office of Cultural Centers and Resources provides policy direction, program support, and professional guidance and materials to overseas libraries and American and Binational Centers. It promotes the distribution of American books in English and in translation; operates a donated books program; and supports English teaching programs abroad. The Office of Private Sector Programs supports the enhancement of Americans' competence in world affairs through greater understanding of other societies—their peoples, values, cultures and aspirations—by providing selective assistance, encouragement and grant support to nonprofit activities of U.S. organizations outside the federal government that satisfy this purpose. The Office of International Visitor Programs is responsible for planning, implementing, monitoring and evaluating all International Visitor and Voluntary Visitor programs; for managing the Agency's five reception centers; for serving as the Agency's liaison with public and private organizations involved in the International Visitor Program; and for arranging programs in the U.S. for UN Fellows and foreign government trainees. The Office of Academic Programs is responsible for conducting academic exchanges between the United States and other countries; facilitating the establishment and maintenance of close ties between the American academic community and those abroad; encouraging and supporting American studies at foreign universities and other institutions of higher learning; and providing staff support to the Board of Foreign Scholarships.

* * * * *

§ 504.2 [Amended]

In § 504.2(d)(1)(vi), the first sentence is revised to read as follows:

* * * * *

(d) * * *

(1) * * *

(vi) The Agency maintains 204 posts abroad in 127 countries. * * *

§ 504.2 Appendix I [Amended]

In § 504.2 APPENDIX I (1), the third office listing is revised to read as follows:

* * * * *

United States Advisory Commission on Public Diplomacy.

* * * * *

§ 504.2 Appendix I [Amended]

In § 504.2 APPENDIX I(2)(b), the second office listing is revised to read as follows:

* * * * *

Associate Directorate for Educational and Cultural Affairs—Office of Cultural Centers and Resources;

Associate Directorate for Management—Office of Administrative Services.

§ 504.2 Appendix I [Amended]

In § 504.2 APPENDIX I(2)(f) is revised to read as follows:

* * * * *

(f) International Communication Agency, 1425 K Street, N.W., Washington, D.C. 20547; Associate Directorate for Management—Office of Security, Office of Audits, Office of Inspections, Management Analysis/Regulations Staff; Associate Directorate for Programs—Exhibits Service.

§ 504.2 Appendix II [Amended]

In § 504.2 APPENDIX II, the second office listing is revised to read as follows:

* * * * *

International Communication Agency, Foreign Press Center, 18 E. 50th Street, New York, N.Y. 10022.

* * * * *

§ 504.2 Appendix II [Amended]

In § 504.2 APPENDIX II, the sixth office listing is revised to read as follows:

* * * * *

International Communication Agency, Southeast Correspondent Staff, Room 1518 Federal Office Building, 51 S.W. First Avenue, Miami, Fla. 33130.

* * * * *

§ 504.2 Appendix II [Amended]

In § 504.2 APPENDIX II, the fourteenth office listing is revised to read as follows:

* * * * *

International Communication Agency, West Coast Correspondent Staff, Room 13123, Federal Building, 11000 Wilshire Boulevard, Los Angeles, Calif. 90024.

* * * * *

PART 505—PRIVACY ACT POLICIES AND PROCEDURES

In § 505.7(a)(1) last sentence is revised to read as follows:

§ 505.7 Request for correction or amendment of record.

(a) * * *

(1) * * *. These guidelines will also be available in the USICA Office of Congressional and Public Liaison, Room 1013, 1750 Pennsylvania Avenue, NW., Washington, D.C. 20547, or may be obtained by writing the Director of Congressional and Public Liaison, at the above address.

* * * * *

In § 505.10(e)(10), the paragraph is revised to read as follows:

§ 505.10 Disclosure of record to persons other than the individual to whom it pertains.

* * * * *

(e) * * *

(10) Disclosure to the General Accounting Office. Records on individuals may be disclosed to the Comptroller General or any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office.

* * * * *

It is the general policy of the International Communication Agency to allow time for interested parties to take part in the rulemaking process. These amendments are administrative in nature, therefore, the rulemaking process involving comment and public procedure is waived and these amendments become effective March 19, 1980.

Issued at Washington, D.C.

John E. Reinhardt,

Director, International Communication Agency.

[FR Doc. 80-8426 Filed 3-18-80; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 43a

Preparation of a Roll of Pyramid Lake Paiute Indians; Preparation, Certification and Approval of Roll

March 13, 1980.

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

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is adding a new part to its regulations to establish procedures to govern preparation of a roll of persons eligible to share in the distribution of funds derived from an award to the Pyramid Lake Paiute Tribe.

EFFECTIVE DATE: The new regulations will become effective March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Hunter, Superintendent, Western Nevada Agency, Bureau of Indian Affairs, Stewart, Nevada 89437, Telephone: 702-882-3411.

SUPPLEMENTARY INFORMATION: Proposed regulations for the preparation of a roll of members of the Pyramid Lake Paiute Indian Tribe were published for comment in the **Federal Register** on January 14, 1980 (45 FR 2665). On January 24, 1980, a correction to the proposed regulations was published in the **Federal Register** (45 FR 5754). The membership roll to be prepared will be used to distribute funds derived from an award to the Pyramid Lake Paiute Indian Tribe by the Indian Claims Commission in Docket 87-B. Funds to satisfy the award were appropriated by Congress and the plan for the use and distribution of the funds became effective on June 12, 1979.

No comments or suggestions were received. The only changes in the regulations are the insertion in § 43a.3(c) of the deadline for filing applications, July 15, 1980, and the correction of two typographical errors: changing § 41a.1 to correctly read § 43a.1 and deleting an "s" from "Applications" in the beginning of § 43a.4(a).

The authority for issuing this amendment is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 209 DM 8.

The regulations impose a deadline for applying for enrollment to share in the judgment funds. The 30-day deferred effective date would curtail the filing period, which would not be in the public interest. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (a)(3) of 5 U.S.C. 553 (1970).

The Department of the Interior has determined that these regulations do not significantly affect the quality of the human environment and, therefore, do not require the preparation of an Environmental Impact Statement under Section 102 (2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (2)(c).

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary authors of this document are Sharlot Johnson, Tribal Enrollment Specialist and Allen Anspach, Tribal Operations Officer (Intern), Phoenix Area Office, Bureau of Indian Affairs; and Janet L. Parks, Chief, Branch of Tribal Enrollment Services, and Kathleen L. Slover, Tribal Enrollment Specialist, Branch of Tribal Enrollment Services, Bureau of Indian Affairs.

Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is amended by the addition of a new part to read as set forth below.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

PART 43a—PREPARATION OF A ROLL OF PYRAMID LAKE PAIUTE INDIANS

Sec.

43a.a.1 Definitions.
43a.2 Purpose.
43a.3 Qualification for enrollment and the deadline for filing.
43a.4 Application form.
43a.5 Filing of applications.
43a.6 Burden of proof.
43a.7 Action by the Tribe.
43a.8 Action by the Superintendent.
43a.9 Appeals.
43a.10 Decision of the Secretary on appeals.
43a.11 Preparation of roll.

Sec.

43a.12 Certification and approval of the roll.
43a.13 Special instructions.

Authority: 5 U.S.C. 301, 463 and 465 of revised statutes (25 U.S.C. 2 and 9), and 209 DM 8.

§ 43a.1 Definitions.

As used in these regulations:

(a) "Plan" means the plan for the use and distribution of Pyramid Lake Paiute judgment funds awarded in Docket 87–B before the Indian Claims Commission, prepared pursuant to the Act of October 19, 1973, and effective June 12, 1979.

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs or his authorized representative.

(d) "Director" means the Area Director, Phoenix Area Office, Bureau of Indian Affairs or his authorized representative acting under delegated authority.

(e) "Superintendent" means the Superintendent, Western Nevada Agency, Bureau of Indian Affairs or his authorized representative acting under delegated authority.

(f) "Staff Officer" means the Enrollment Officer or other person authorized to prepare the roll.

(g) "Tribe" means the Pyramid Lake Paiute Tribe of Nevada.

(h) "Tribal Council" means the governing body of the Pyramid Lake Paiute Tribe.

(i) "Tribal Enrollment Committee" means the tribal committee responsible for assisting the Tribal Council in enrollment.

(j) "Living" means born on or prior to and living on June 12, 1979.

(k) "Resident" means one who makes the Pyramid Lake Indian Reservation his fixed and permanent home and to which, if he is absent, he intends to return.

(l) "Constitution" means the written organizational framework for the governing of the tribe and/or any valid document, enrollment ordinance, or resolution the tribe may adopt pursuant to its constitution.

(m) "Sponsor" means a parent, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, the Superintendent, or other person who files an application for enrollment on behalf of another person.

§ 43a.2 Purpose.

The regulations in this part are to govern the compilation of a roll of members of the Pyramid Lake Paiute Tribe eligible to share in the distribution of judgment funds awarded the Pyramid Lake Paiute Indians by the Indian Claims Commission in Docket No. 87–B.

§ 43a.3 Qualifications for enrollment and deadline for filing.

The roll shall contain the names of persons living on June 12, 1979, who meet the following requirements for enrollment:

(a) The criteria specified in Article II, Section 1 of the Pyramid Lake constitution which provides that the membership of the tribe shall consist of:

(1) All persons of Indian blood whose names appear on the official roll of the Pyramid Lake Reservation as of January 1, 1935.

(2) All children born to any member of the Pyramid Lake Paiute Tribe who is a resident of the reservation at the time of the birth of said children; or

(b) They are adopted into membership by the tribe pursuant to any ordinance adopted by the tribe in accordance with Article II, Section 2 of the constitution, and approved by the Secretary.

(c) They file an application with the Superintendent, Western Nevada Agency, Stewart, Nevada 89437. Applications must be received by the Superintendent no later than close of business on July 15, 1980. Applications received after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether applicant otherwise meets the requirements for enrollment. However, persons rejected for late-filed applications may be considered for enrollment as members of the tribe for future purposes. If the filing deadline falls on a Saturday, Sunday, legal holiday or other nonbusiness day, the deadline will be the next working day thereafter.

§ 43a.4 Application forms.

(a) Application forms to be filed by applicants for enrollment will be furnished by the Superintendent, or other designated persons, upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom applications are given, as well as the control numbers of the forms and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing applications.

(b) Among other information, each application shall contain:

(1) Certification as to whether application is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application is filed by a sponsor, the name, and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of applications furnished interested individuals.

§ 43a.5 Filing of applications.

(a) Any person who desires to be enrolled and who believes he meets the requirements for enrollment specified in the plan and the regulations in this part must file or have filed for him a completed application form with the Superintendent or other designated person on or before the deadline specified in § 43a.3.

(b) Written application forms for minors, mentally incompetent persons or other persons in need of assistance, for members of the Armed Services or other service of the U.S. Government and/or members of their families stationed in Alaska, Hawaii, or elsewhere outside the continental United States, or for a person who died after June 12, 1979, may be filed by the sponsor on or before the deadline.[1]

(c) Every applicant or sponsor shall furnish the applicant's mailing address on the application. Thereafter, he shall promptly notify the Superintendent of any change in address, giving appropriate identification of the application, otherwise the address as stated shall be acceptable as the proper address.

§ 43a.6 Burden of proof.

The burden of proof of eligibility for enrollment rests upon the applicant. Documentary evidence such as birth certificates, death certificates, baptismal records, copies of probate findings or affidavits must be used to support claims for enrollment. Records of the Bureau of Indian Affairs may also be used to establish eligibility.

§ 43a.7 Action by the tribe.

All applications received by the Superintendent shall be submitted to the Tribal Enrollment Committee for review and recommendation. The Tribal Enrollment Committee shall review all applications and present their written recommendations at the next regularly scheduled Tribal Council meeting after receipt of the applications. The Tribal Council, by resolution, will make their decision. The decision shall state the reason(s) for approval or rejection of the applicant for tribal membership. Within five (5) working days after the Tribal Council's action, the applications shall be returned to the Superintendent with

[1] Criminal penalties are provided by statute for knowingly filing false information in such settlements. (18 U.S.C. 1001).

the decision and any additional evidence used in determining eligibility for tribal membership.

§ 43a.8 Action by the Superintendent.

(a) The Superintendent shall consider each application, all documentation, and the Tribal Council's decision. The Superintendent shall accept the decision of the Tribal Council unless the decision is clearly erroneous. If the Superintendent overrules the Tribal Council's decision, he shall notify the Tribal Council of his actions and the reasons therefore. The determination of the Superintendent shall only affect the applicant's eligibility to share in the distribution of the judgment funds. Upon determining an applicant's eligibility, the Superintendent shall notify the applicant or sponsor, as applicable, in writing of his decision. If the decision is favorable, the name of the applicant shall be placed on the roll. If the Superintendent decides the applicant is not eligible, he shall notify the applicant or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for rejection and of the right to appeal to the Secretary. If correspondence is sent out of the United States, it may be necessary to use registered mail. If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, said notice must list the name of each person involved.

(b) A notice of eligibility or rejection is considered to have been made on the date (1) of delivery indicated on the return receipt, (2) of acknowledgment of receipt, (3) of personal delivery, or (4) of the return by the post office of an undelivered certified or registered letter.

(c) In all cases where an applicant is represented by an attorney, such attorney will be recognized as fully controlling the same on behalf of his client; and service of any document relating to the application shall be considered to be service on the applicant he represents. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(d) To avoid hardship or gross injustice, the Superintendent may waive technical deficiencies in applications or other submissions. Failure to file by the deadline does not constitute a technical deficiency.

§ 43a.9 Appeals.

Appeals from rejected applications must be in writing and must be filed pursuant to Part 42 of this subchapter, a copy of which shall be furnished with each notice of rejection.

§ 43a.10 Decision of the Secretary on appeals.

The decision of the Secretary on an appeal shall be final and conclusive, and written notice of the decision shall be given to the applicant or sponsor. When so directed by the Secretary, the Assistant Secretary shall cause to be entered on the roll the name of any person whose appeal has been sustained.

§ 43a.11 Preparation of roll.

The staff officer shall prepare a minimum of 5 copies of the roll of those persons determined to be eligible for enrollment, including those whose appeals were sustained. In addition to other information which may be shown, the complete roll shall contain for each person an identification number, name, address, sex, date of birth, date of death (if applicable), degree of tribal blood, and the authority for enrollment.

§ 43a.12 Certification and approval of the roll.

A certificate shall be attached to the roll by the Superintendent certifying that to the best of his knowledge and belief the roll contains only the names of those persons who were determined to meet the requirements for enrollment. The Director shall approve the roll.

§ 43a.13 Special instructions.

To facilitate the work of the Superintendent the Assistant Secretary may issue special instructions not inconsistent with the regulations in this part.

[FR Doc. 80-8328 Filed 3-18-80; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 48 and 154

[T.D. 7686; LR-56-79]

Manufacturers and Retailers Excise Taxes; Uniform Maximum Period for Exemption Certificates

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to an extension of the maximum duration period of blanket exemption certificates for purchases of various items otherwise subject to tax. These regulations provide necessary guidance to the public for compliance with the law, and they affect all persons required to pay retailers or manufacturers excise taxes.

DATE: The regulations are effective for sales made after December 31, 1958.

FOR FURTHER INFORMATION CONTACT: Annie R. Alexander of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T:LR-56-79, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMAITON:

Background

This Treasury decision amends §§ 48.4041-9, 48.4073-3, 48.4083-1, 48.4091-3-4, 6, 48.4093-1, and 154.1-1 of the regulations to extend the maximum duration of blanket exemption certificates from 4 calender quarters to 12 calendar quarters. The certificates are used by purchasers buying otherwise taxable items for exempt purposes and on a regular basis from a single supplier. The certificates are required before a tax-free purchase can be made. Treasury Decision 7536, 1978-1 C.B. 317, extended the maximum period from 4 to 12 calendar quarters for some, but not all, exemption certificates. These regulations will create a uniform period for all such certificates. For similar reasons, § 48.4221-6 (c) is amended to permit notification for a period not to exceed 12 calendar quarters. Because this regulation is nonsubstantive and liberalizes a procedural requirement in favor of taxpayers, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section. For the same reasons, this regulation is not a significant regulation under paragraph 8 of the Treasury Directive appearing in the Federal Register for November 8, 1978 (43 FR 52120).

Drafting Information

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

Amendments to the Regulations

The following amendments to 26 CFR Parts 48 and 154 are adopted:

§ 48.4041-9 [Amended]

Paragraph 1. Paragraph (b)(2) of § 48.4041-9 is amended by substituting "12 calendar quarters" for "4 calendar quarters" in the second sentence.

§ 48.4073-3 [Amended]

Par. 2. Paragraph (c)(2) of § 48.4073-3 is amended by substituting "12 calendar quarters" for "4 calendar quarters" in the second sentence.

§ 48.4083-1 [Amended]

Par. 3. Paragraph (a) of § 48.4083-1 is amended by substituting "twelve successive calendar quarters" for "four successive calendar quarters" in the first sentence immediately following (a)(2)(ii).

§ 48.4091-3 [Amended]

Par. 4. Paragraph (a)(2)(ii) of § 48.4091-3 is amended by substituting "12 calendar quarters" for "4 calendar quarters" in the second sentence.

§ 48.4091-4 [Amended]

Par. 5. Paragraph (a)(2)(ii) of § 48.4091-4 is amended by substituting "12 calendar quarters" for "4 calendar quarters" in the second sentence.

§ 48.4091-6 [Amended]

Par. 6. Paragraph (b)(2) of § 48.4091-6 is amended by substituting "12 calendar quarters" for "4 calendar quarters" in the second sentence.

§ 48.4093-1 [Amended]

Par. 7. Paragraph (a)(2)(i) of § 48.4093-1 is amended by substituting "12 calendar quarters" for "4 calendar quarters".

§ 48.4221-6(c) [Amended]

Par. 8. Section 48.4221-6(c) is amended by deleting the period at the end of the next to the last sentence and inserting in lieu thereof the following: "except that a single notification containing the information described in this paragraph may cover all sales by the seller to the purchaser made during a designated period not to exceed 12 successive calendar quarters.".

§ 154.1-1 [Amended]

Par. 9. Paragraph (d)(4) of § 154.1-1 is amended by substituting "12 calendar quarters" for "4 calendar quarters" in the first sentence.

(This Treasury decision is issued under the authority contained in Section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805)

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: February 26, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-8378 Filed 3-18-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 209

[DoD Directive 4120.18][1]

Metric System of Measurement

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule assigns Department of Defense responsibilities for the implementation and management of the metric system of measurement in compliance with Title 15, U.S.C. 205, "Metric Conversion Act of 1975"; and establishes the DoD Metrication Steering Group. Use of this system will promote interchangeability and interoperability of equipment and materiel with NATO and other allied nations, facilitate joint military production programs, and simplify supply operations.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. H. B. Ellsworth, Office of the Under Secretary of Defense for Research and Engineering (Specifications and Standards), The Pentagon, Washington, D.C. 20301, Telephone: 202-695-7915.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-2571, appearing in the **Federal Register** (43 FR 4009) on January 31, 1978, the Office of the Secretary of Defense published Part 209, effective December 10, 1976, which established Department of Defense policies for the use of the metric system of measurement. This rule revises the previously published Part 209.

Accordingly, 32 CFR Chapter I, is amended by revising PART 209, reading as follows:

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

PART 209—METRIC SYSTEM OF MEASUREMENT

Sec.

209.1 Reissuance and purpose.
209.2 Applicability.
209.3 Background.
209.4 Policy.
209.5 Objectives.
209.6 Responsibilities.

Authority: The provisions of this Part 209 issued under 15 U.S.C. 205a-k (Pub.L. 94-168).

§ 209.1 Reissuance and purpose.

This Part is reissued to reflect organizational responsibilities for the implementation and management of the metrication system of measurement within the Department of Defense, and to establish the Metrication Steering Group.

§ 209.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Military Departments, and the Defense Agencies (hereafter referred to as "DoD Components").

§ 209.3 Background.

(a) The Metric Conversion Act of 1975, Title 15, U.S.C. Section 205a-k (Pub. L. 94-168) establishes a national policy of coordinating the use of the Metric System in the United States. To comply with that policy, the Department of Defense must establish guidelines and procedures to ensure that conversion from the U.S. Customary System of weights and measures (inch-pound) to the Metric System shall be accomplished with minimum cost and disruption of operations.

(b) Use of the Metric System shall promote interchangeability and interoperability of equipment and materiel with out allies, facilitate joint military production programs, and simplify supply operations.

(c) DoD Components shall keep pace with industry by using metric items when commercially available and economically and technically practicable.

§ 209.4 Policy.

(a) It is the policy of the Department of Defense to consider the use of the Metric System in all of its activities, consistent with operational, economical, technical, and safety requirements.

(b) The Metric System shall be used in all new designs, unless such use is not in the best interest of the Department of Defense. In the latter instance, justification shall be documented. Adoption of the Metric System shall also be considered in the acquisition of supplies and services. In general, DoD

Components shall adopt the Metric System in:

(1) Developing materiel to be used jointly with the North Atlantic Treaty Organization (NATO) and other allied nations.

(2) Developing military materiel that has potential for significant foreign sales or multinational joint acquisition programs.

(3) Areas where industry has made significant progress in the design and production of metric products.

(4) Areas where defense-industry preparedness or defense production readiness may be enhanced.

(5) Areas that offer an economical, operational, or other advantage, or where no disadvantage is incurred.

§ 209.5 Objectives.

(a) Physical and operational interfaces between metric items and inch-pound items shall be designed to ensure that interchangeability and interoperability shall not be adversely affected.

(b) Existing designs dimensioned in inch-pound units shall be converted to metric units only if determined to be necessary or advantageous. Unnecessary retrofit of existing systems with new metric components shall be avoided when both the metric and inch-pound components are interchangeable and interoperable. Normally, the measurement units in which a system is originally designed shall be retained for the life of the system.

(c) During the metric transition phase, use of hybrid metric and inch-pound designs may be necessary and will be acceptable. Materiel components, parts, subassemblies, and semifabricated materials that are of commercial design shall be specified in metric units when economically available and technically adequate, or when it is otherwise specifically determined to be in the best interest of the Department of Defense. Bulk materials shall be specified and accepted in metric units when expediency and economy dictates.

(d) Defense Systems Acquisition Review Council (DSARC) reviews and associated Decision Coordinating Papers (DoD Directive 5000.2[1] "Major System Acquisition Process," January 18, 1977) shall address the use of metric units of measurement or reasons for their nonuse.

(e) Technical reports, studies, and position papers (except those pertaining to items dimensioned in inch-pound units) shall include metric units of measurement in addition to or in place of inch-pound units. With respect to existing contracts, this requirement applies only if such documentation can be obtained without an increase in contract costs.

(f) Programing and budgeting actions shall include resources required to support the DoD effort in converting to the use of metric units. Use of the Metric System shall be identified, justified, and planned so that costs can be included in the budget cycle on an orderly basis.

(g) The Department of Defense shall use the Metric System of the International System of Units (SI) described by the American Society for Testing and Materials, E-380, "Standard for Metric Practice, DoD Index of Specifications and Standards."

(h) To the extent that there is DoD interest, representatives shall participate in the development of national and international standards using the Metric System. NATO and other international metric standards shall be used to the maximum practical extent. However, if a U.S. standard is established with greater definition and restriction than the international standard, the U.S. standard shall be used.

(i) Emphasis shall be placed on coverting or developing specifications, standards, and other general-purpose technical data to keep pace with overall metric conversion activity. When a military item has no commercial counterpart, the developing agency shall assume a leadership role in developing the applicable metric document when the need arises.

(j) When purchasing new shop and laboratory equipment, DoD Components are encouraged to specify features that will allow direct measurement of metric units or both metric and inch-pound units. Use of conversion kits is also encouraged.

(k) Training in metric practices and usage shall be provided to personnel whose duties require such knowledge.

(l) Use of dual dimensions (such as both metric and inch-pound dimensions on drawings) shall be avoided, unless it is determined in specific instances that such usage is beneficial. The use of tables on documents to translate dimensions from one system of measurement to the other is acceptable.

§ 209.6 Reponsibilities.

(a) The *Under Secretary of Defense for Research and Engineering*, or designee, shall:

(1) Provide direction and guidance in the application and use of the metric system of measurement.

(2) Establish the DoD Metrication Steering Group to plan and coordinate the Department of Defense's conversion to the metric system, and to advise DoD Components on matters relating to metrication.

(b) The *Heads of DoD Components* shall:

(1) Appoint a person or establish an office to coordinate metric activities.

(2) Designate a primary and alternate person to represent the DoD Component on the DoD Metrication Steering Group.

(3) The Defense Logistics Agency shall provide the Executive Secretariat to the DoD Metrication Steering Group.

O. J. Williford,

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

March 14, 1980.

[FR Doc. 80-8379 Filed 3-18-80; 8:45 am]

BILLING CODE 3810-70-M

[1] See footnote, page 1.

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32 CFR Part 294

[DoD Directive 5400.12][1]

Obtaining Information From Financial Institutions: Rights to Financial Privacy Act of 1978

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule permits Department of Defense Components to request financial records from a financial institution under the Right to Financial Privacy Act of 1978, and prescribes the conditions and procedures under which such requests may be made. The procedures that this rule established shall be used by authorized DoD personnel to obtain financical records.

EFFECTIVE DATE: February 6, 1980.

FOR FURTHER INFORMATION CONTACT: LTC Aurelio Nepa, Jr., USAF, Staff Director, Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense, (Administration), Telephone: 202-694-3027.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-11033, appearing in the **Federal Register** (44 FR 21304) on April 10, 1979, the Office of the Secretary of Defense published a proposed rule that would permit certain elements of DoD Components to request financial records from a financial institution in accordance with 92 Stat. 3697, et seq, 12 U.S.C. 3401, et seq. No substantive comments from the public sector were received; however, some internal DoD Components' comments and editorial changes were incorporated in the final rule.

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

Accordingly, 32 CFR Chapter I, is amended by adding PART 294, reading as follows:

PART 294—OBTAINING INFORMATION FROM FINANCIAL INSTITUTIONS: RIGHTS TO FINANCIAL PRIVACY ACT OF 1978

Sec.

294.1 Purpose.
294.2 Applicability and scope.
294.3 Policy.
294.4 Information requirements.
294.5 Responsibilities.
294.6 Definitions.
294.7 Requesting basic identifying account information.
294.8 Procedures for obtaining customer's consent.
294.9 Other access procedures.
294.10 Requests for financial records in connection with foreign intelligence and foreign counterintelligence activities.
294.11 Emergency access procedures.
294.12 Procedures for delay of notice.
294.13 Procedures for releasing information obtained from financial institutions.
294.14 Right to Financial Privacy Act of 1978 Annual Report.
Enclosure 1—Request for basic identifying account data format.
Enclosure 2—Customer consent and authorization for access format.
Enclosure 3—Formal written request for access format.
Enclosure 4—Certificate of compliance with the Right to Financial Privacy Act of 1978.
Enclosure 5—Customer notice of formal written request format.

Authority: 92 Stat. 3697, et seq., (12 U.S.C 3401, et seq.)

§ 294.1 Purpose.

This Part implements Title 12, U.S.C Section 3401, et seq., Pub. L. 95–630, "Right to Financial Privacy Act of 1978," and prescribes the procedures for the Department of Defense to use to gain access to financial records maintained by financial institutions.

§ 294.2 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Defense Investigative Service, and the National Security Agency (hereafter referred to as the "DoD Components").

(b) Its provisions apply only to financial records maintained by financial institutions as defined in § 294.6(a).

§ 294.3 Policy.

(a) It is the policy of the Department of Defense when obtaining financial records from a financial institution to seek the consent of the customer to whom the record pertains, unless doing so compromises or harmfully delays a legitimate law enforcement inquiry. If the person declines to consent to disclosure, the alternative means of obtaining the records authorized by this Part shall be utilized.

(b) The provisions of 12 U.S.C. 3401 et seq. and this Part do not govern obtaining access to financial records maintained by military banking contractors located outside of the United States, the District of Columbia, Guam, American Samoa, or the Virgin Islands. The Assistant Secretary of Defense (Comptroller) is authorized to develop procedures for obtaining access to financial records maintained by military banking contractors in those areas.

§ 294.4 Information requirements.

The report required by § 294.14 of this Part is assigned Report Control Symbol DD–COMP(A)1538.

§ 294.5 Responsibilities.

(a) *Heads* of affected *DoD Components* shall:

(1) Follow the procedures outlined in this Part when seeking access to financial records.

(2) Establish procedures for implementing this Part within the Component.

(3) Established procedures to ensure that the report required by § 294.14 is forwarded to the Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense (Administration).

(b) The *Deputy Assistant Secretary of Defense (Administration),* or designee, shall:

(1) Prepare a consolidated DoD annual report required by 12 U.S.C. 3421(b) and § 294.14.

(2) Provide policy guidance to DoD Components to implement this Part.

§ 294.6 Definitions.

(a) *Financial institution.* Any office of a bank, savings bank, credit card issuer, industrial loan company, trust company, savings and loan, building and loan, homestead association (including cooperative banks), credit union, or consumer finance institution that is located in any State or territory of the United States, or in the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) *Financial record.* An original, its copy, or information known to have been extracted from the original record held by a financial institution that pertains to a customer's relationship with the financial institution.

(c) *Person.* An individual or a partnership of five or less individuals.

(d) *Customer.* Any person or authorized representative of that person who used or is using any service of a financial institution or for whom a financial institution is acting or has acted as fiduciary for an account maintained in the name of that person.

(e) *Law enforcement office.* Any element of a DoD Component authorized by the Component head to conduct law enforcement inquiries.

(f) *Law enforcement inquiry.* A lawful investigation or official proceeding that inquires into a violation of or failure to comply with a criminal or civil statute, or any rule, regulation, or order issued pursuant thereto.

(g) *Personnel security investigation.* An investigation required to determine a person's eligibility for access to classified information, assignment or retention in sensitive duties, or other designated duties requiring such investigation. Personnel security investigations include investigations of subversive affiliations, suitability information, or hostage situations conducted for the purpose of making personnel security determinations; and also include investigations of allegations that arise subsequent to adjudicative action that require resolution to determine an individual's current eligibility for access to classified information, or assignment or retention in a sensitive position.

(h) *Personnel security element.* Any element of a DoD Component authorized by the Secretary of Defense to conduct personnel security investigations.

§ 294.7 Requesting basic identifying account information.

(a) A DoD law enforcement office may issue a formal written request for basic identifying account information to a financial institution relevant to a legitimate law enforcement inquiry. A request may be issued to a financial institution for any or all of the following identifying data:

(1) Name.
(2) Address.
(3) Account Number.
(4) Type of account of any customer or ascertainable group of customers associated with a financial transaction or class of financial transactions.

(b) A request for disclosure of the above specified basic identifying information concerning a customer's account shall not require any customer notice (§ 294.9, 11, and 13), challenge (§ 294.9) or transfer (§ 294.13) procedures. However, this partial exception for basic identifying data shall not alter the mandatory access requirements set forth in § 294.8 and 9 to obtain the actual financial record itself.

(c) A format for requesting basic identifying account data is set forth in enclosure 1 of this part.

§ 294.8 Procedures for obtaining customer's consent.

(a) A DoD law enforcement office or personnel security element seeking access to a person's financial records shall, when feasible, obtain the customer's consent.

(b) Any consent obtained under § 294.8(a) shall:

(1) Be in writing, signed, and dated.

(2) Identify the particular financial records that are being disclosed.

(3) State that the customer may revoke the consent at any time before disclosure.

(4) Specify the purpose for disclosure and to which agency the records may be disclosed.

(5) Authorize the disclosure for a period not in excess of 3 months.

(6) Contain a Privacy Act advisory statement required by Part 286a of this title for a personnel security investigation.

(7) Contain a "Statement of Customer Rights Under the Right to Financial Privacy Act of 1978" (enclosure 2).

(c) Any customer's consent not containing all of the elements listed in § 294.8(b), shall be void. A customer consent form, in a format set forth in enclosure 2, shall be used for this purpose.

(d) A copy of the customer's consent shall be made a part of the law enforcement inquiry or personnel security investigation file.

(e) A certification of compliance with 12 U.S.C. 3401 et seq., in writing (enclosure 4), along with the customer's consent, shall be provided to the financial institution as a prerequisite to obtaining access to financial records.

(f) The annual reporting requirements of § 294.14 shall apply to any request for access under § 294.8(a).

§ 294.9 Other access procedures.

(a) *Access by compulsory legal process.* (1) *Administrative summons or subpoena.* DoD Components are without authority to issue an administrative summons or subpoena for access to financial records.

(2) *Search warrant.* (i) A law enforcement office may obtain financial records by using a search warrant obtained under Rule 41 of the federal Rules of Criminal Procedure in appropriate cases.

(ii) Unless a delay of notice has been obtained under provisions of § 294.12, the law enforcement office shall, no later than 90 days after serving the search warrant, mail to the customer's last known address a copy of the search warrant together with the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this [agency or department] on [date] for the following purpose: [state purpose]. you may have rights under the Right to Financial Privacy Act of 1978."

(iii) In any state or territory of the United States, or in the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands, search warrants signed by installation commanders or military judges shall not be used to gain access to financial records.

(3) *Judicial subpoena.* Judicial subpoenas are those issued in connection with a pending judicial proceeding and inlcude subpoenas issued under paragraph 115 of the Manual for Courts Martial (1969 Revised) and Article 46 of the Uniform Code of Military Justice. Cognizant legal counsel shall be consulted on the availability and use of judicial subpoenas.

(b) *Formal written request.* (1) A law enforcement office may issue a formal written request for financial records when the records sought are relevant to a legitimate law enforcement inquiry. This request may be issued only if the customer has declined to consent, § 294.8, to the disclosure of his or her records, or if it is determined that to seek consent from the customer would compromise or harmfully delay a legitimate law enforcement inquiry.

(2) A formal written request shall be in a format set forth in enclosure 3 and shall:

(i) State that the request is issued under the Right to Financial Privacy Act of 1978 and the Component's implementation of this Part.

(ii) Describe the specific records to be examined.

(iii) State that access is sought in connection with a legitimate law enforcement inquiry.

(iv) Describe the nature of the inquiry.

(v) Be signed by the head of the law enforcement office or a designee.

(3) When a formal written request is issued to a financial institution, a copy of the request shall, at the same time or before, be personally served upon, or mailed to the customer's last known address unless a delay of customer notice has been obtained under § 294.12. The notice to the customer shall be in a format similar to enclosure shall be personally served at least 14 days or mailed at least 18 days prior to the date on which access is sought.

(4) The official who signs the customer notice shall be designated to receive any challenge from the customer.

(5) The customer shall have 14 days to challenge a notice request when personal service is made and 18 days when service is by mail.

(6) Components shall establish procedures to ensure that no access to financial records is attempted before the expiration of the pertinent time period while awaiting receipt of a potential customer challenge, or prior to the adjudication, prescribed by 12 U.S.C. 3410, of any challenge made.

(7) When a customer fails to file a challenge to access to financial records within the pertinent above time periods, or after a challenge is adjudicated in favor of the law enforcement office, the head of the office, or a designee, shall certify in writing to the financial institution that such office has complied with the requirements of 12 U.S.C. 3401 et seq. No access to any financial records shall be made before such certification is given.

(c) *Certification.* Prior to obtaining the requested records under § 294.9(a)(2) and (a)(3), a certification of compliance with 12 U.S.C. 3401 et seq. and enclosure 4 of this Part, shall be provided to the financial institution as a prerequisite to obtaining access to financial records.

(d) *Annual report.* The annual reporting requirements of § 294.14 shall apply to the access procedures under § 294.9(a)(2), (a)(3), and (b).

§ 294.10 Requests for financial records in connection with foreign intelligence and foreign counterintelligence activities.

(a) Except as specified in § 294.10(b), nothing in this Part shall apply to requests for financial records in connection with authorized foreign intelligence and foreign counterintelligence activities as defined in E.O. 12036, January 24, 1978.

(b) When a request for financial records is made under § 294.10(a), a Component official designated by the Secretary of Defense, the Secretary of a Military Department, or the Head of the DoD Component authorized to conduct foreign intelligence and foreign counterintelligence activities shall certify to the financial institution that the requesting Component has complied with the provisions of 12 U.S.C. 3401 et seq. Such certification, in a format similar to enclosure 4 of this Part, shall be made before obtaining any records.

(c) A Component requesting financial records under section (a), above, may notify the financial institution from which records are sought that section 3414(3) of 12 U.S.C. 3401 et seq., prohibits disclosure to any person by the institution, its agents, or employees that financial records have been sought or obtained.

(d) The annual reporting requirements of § 294.14 shall apply to any request for access under § 294.10(a).

§ 294.11 Emergency access procedures.

(a) Except as provided in § 294.11(b) and (c), nothing in this Part shall apply to a request for financial records from a financial institution when the law enforcement office making such request determines that a delay in obtaining access to such records would create an imminent danger of:

(1) Physical injury to any person.
(2) Serious property damage.
(3) Flight to avoid prosecution.

(b) When access is made to financial records under § 294.11(a), Component official designated by the Secretary of Defense or the Secretary of a Military Department shall:

(1) Certify in writing, in a format set forth in enclosure 4 of this Part, to the financial institution that the Component has complied with the provisions of 12 U.S.C. 3401 et seq., as a prerequisite to obtaining access.

(2) Submit for filing with the appropriate court a signed sworn statement setting forth the grounds for the emergency access within 5 days of obtaining access to financial records.

(c) After filing of the signed sworn statement required by § 294.11(b)(2), the Component that has obtained access to financial records under § 294.11(a), shall personally serve or mail to the customer a copy of the request to the financial institution and the following notice, unless a delay of notice has been obtained under § 294.12.

"Records concerning your transactions held by the financial institution named in the attached request were obtained by [agency or department] under the Right to Financial Privacy Act of 1978 on [date] for the following purpose: [state with reasonable specificity the nature of the law enforcement inquiry]. Emergency access to such records was obtained on the grounds that [state grounds]."

Mailings under this paragraph shall be by certified or registered mail to the last known address of the customer.

(d) The annual reporting requirements of § 294.14 shall apply to any access pursuant to § 294.11(a).

§ 294.12 Procedures for delay of notice.

(a) The customer notice required by § 294.9(b)(3), § 294.11(c), or § 294.13(c) may be delayed for successive periods of 90 days. The notice required by § 294.12(a)(2)(ii) may be delayed for one period of 180 days and successive periods of 90 days. A delay of notice may only be granted by a court of competent jurisdiction and only when not serving the notice would result in:

(1) Endangering the life or physical safety of any person.
(2) Flight from prosecution.
(3) Destruction of or tampering with evidence.
(4) Intimidation of potential witnesses.
(5) Otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same degree as the circumstances in § 294.12(1) through (4).

(b) When a delay of notice is appropriate, legal counsel shall be consulted to obtain such a delay. Application for delays of notice shall be made with reasonable specificity.

(c) Upon the expiration of a delay obtained under § 294.12(a), of a notice required by:

(1) § 294.9(a)(2)(ii), the law enforcement office obtaining such records shall mail to the customer a copy of the search warrant and the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this [agency or department] on [date]. Notification was delayed beyond the statutory 90-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning [state with reasonable specificity]. You may have rights under the Right to Financial Privacy Act of 1978."

(2) § 294.9(b)(3), the law enforcement office obtaining such records shall serve personally or mail to the customer a copy of the process or request and the following notice:

"Records of information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on [date]. Notification was withheld pursuant to a determination by the [title of the court so ordering] under the Right to Financial Privacy Act of 1978 that such notice might [state reason]. The purpose of the investigation or official proceeding was [state purpose with reasonable specificity]."

(3) § 294.11(c), the law enforcement office obtaining financial records shall serve personally or mail to the customer a copy of the request and the notice required by § 294.11(c).

(4) § 294.13(c), the law enforcement office or personnel security element transferring such records shall serve personally or mail to the customer the notice required by § 294.13(c).

(d) The annual reporting requirements of § 294.14 shall apply to any request for access under the delay of notice.

§ 294.13 Procedures for releasing information obtained from financial institutions.

(a) Financial records obtained under 12 U.S.C. 3401 et seq., shall be marked: "This record was obtained pursuant to the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and may not be transferred to another federal agency or department without prior compliance with the transferring requirements of 12 U.S.C. 3412."

(b) Financial records obtained under the provisions of 12 U.S.C. 3401 et seq., shall not be transferred to another agency or department outside the Department of Defense unless the head of the transferring law enforcement office, personnel security element, or delegate certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department. Such certificates shall be maintained with the DoD Component copy of the released records.

(c) Unless a delay of customer notice has been obtained under § 294.12, when financial information is transferred under § 294.13(b), the law enforcement office or personnel security element shall within 14 days, personally serve or mail to the customer, at his or her last known address, a copy of the certificate required by § 294.13(b), and the following notice:

"Copies of or information contained in your financial records lawfully in possession of [name of agency] have been furnished to [name of agency] pursuant to the Right to Financial Privacy Act of 1978 for the following purposes: [state reason]. If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974."

(d) If a request for release of information is from a federal agency authorized to conduct foreign intelligence or foreign counterintelligence activities, as defined in E.O. 12036, for purposes of conducting its protective functions, the transferring DoD Component may release the information without notifying the customer.

§ 294.14 Right to Financial Privacy Act of 1978 Annual Report.

(a) Each affected DoD Component shall compile an annual report setting forth the following for the preceding calendar year:

(1) The number of requests for access to financial institutions specifying the types of access and any other information deemed relevant or useful.

(2) The number of customer challenges to access and whether they were successful.

(3) The number of transfers to agencies outside of the Department of Defense of information obtained under this Part.

(4) The number of customers challenges to the transfer of information and whether they were successful.

(5) The number of applications for delay of notice, the number granted, and the names of the officials requesting such delays.

(6) The number of delay of notice extensions sought and the number granted.

(7) The number of refusals by financial institutions to grant access by category of authorization, such as, customer consent or formal written request.

(b) This report shall be submitted to the Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense (Administration), by February 15 annually.

Enclosure 1

Request for Basic Identifying Account Data Format

[Official Letterhead]

[Date]

To: [Name and address of financial institution]

From: [Name and address of the DoD Component]

Subject: Request for Basic Identifying Account Data concerning [Customer's name or any other appropriate identification]

In connection with a legitimate law enforcement inquiry and pursuant to section 3413(g) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., you are requested to provide the following account information: [Name, address, account number, and type of account of any customer or ascertainable group of customers associated with a certain class of financial transactions as set forth in enclosure 2].

I hereby certify, pursuant to section 3403(b) of the Right of Financial Privacy Act of 1978, that the provisions of the Act have been complied with as to this request for account information.

[Signature]
[Name and title of official]
[DoD Component]
[Telephone]

Under section 3417(c) of the Act, good faith reliance upon this certification relieves your institution and its employees and agents of any possible liability to the subject in connection with the disclosure of the requested financial records.

Enclosure 2

Customer Consent and Authorization for Access Format

Pursuant to section 3404(a) of the Right to Financial Privacy Act of 1978, I, [Name of customer], having read the explanation of my rights on the reverse side, hereby authorize the [Name and address of financial institution] to disclose these financial records: [List the particular financial records] to [DoD Component] for the following purpose(s): [Specify the purpose(s)].

I understand that this authorization may be revoked by me in writing at any time before my records, as described above, are disclosed, and that this authorization is valid for no more than three months from the date of my signature.

Date: ————
Signature: ————
[Typed name]
[Address of customer]

Statement of Customer Rights Under the Right to Financial Privacy Act of 1978

Federal law protects the privacy of your financial records. Before banks, savings and loan associations, credit unions, credit card issuers, or other financial institutions may give financial information about you to a federal agency, certain procedures must be followed.

Consent to Financial Records

You may be asked to consent to the financial institution making your financial records available to the Government. You may withhold your consent, and your consent is not required as a condition of doing business with any financial institution. If you give your consent, it can be revoked in writing at any time before your records are disclosed. Furthermore, any consent you give is effective for only three months, and your financial institution must keep a record of the instances in which it discloses your financial information.

Without Your Consent

Without your consent, a federal agency that wants to see your financial records may do so ordinarily only by means of a lawful subpoena, summons, formal written request, or search warrant for that purpose. Generally, the federal agency must give you advance notice of its request for your records explaining why the information is being sought and telling you how to object in court. The federal agency must also send you copies of court documents to be prepared by you with instructions for filling them out. While these procedures will be kept as simple as possible, you may want to consult an attorney before making a challenge to a federal agency's request.

Exceptions

In some circumstances, a federal agency may obtain financial information about you without advance notice or your consent. In most of these cases, the federal agency will be required to go to court for permission to obtain your records without giving you notice beforehand. In these instances, the court make make the Government show that its investigation and request for your records are proper.

When the reason for the delay of notice no longer exists, you will usually be notified that your records were obtained.

Transfer of Information

Generally, a federal agency that obtains your financial records is prohibited from transferring them to another federal agency unless it certifies in writing that the transfer is proper and sends a notice to you that your records have been sent to another agency.

Penalties

If the federal agency or financial institution violates the Right to Financial Privacy Act, you may sue for damages or seek compliance with the law. If you win, you may be repaid your attorney's fee and costs.

Additional Information

If you have any questions about your rights under this law, or about how to consent to release your financial records, please call the official whose name and telephone number appears below:

(Name, title, telephone number) ————
(Component activity, address) ————

Enclosure 3

Formal Written Request for Access Format

[Official letterhead]

[Date]

To: [Name and address of financial institution]

From: [Name and address of the DoD Component]

Subject: Formal Written Request for Financial Records of [Customer's name or any other appropriate identification]

In connection with a legitimate law enforcement inquiry and pursuant to section 3402(5) and section 3408 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and [cite Component's implementation of this Part], you are requested to provide the following account information pertaining to the subject:

[Describe the specific records to be examined]

The [DoD Component] is without authority to issue an administrative summons or subpoena for access to these financial records which are required for [Describe the nature or purpose of the inquiry].

A copy of this request was [personnally served upon or mailed] to the subject on [Date] who has [10 or 14] days in which to challenge this request by filing an application in an appropriate United States district court if the subject desires to do so.

Upon the expiration of the above mentioned time period and absent and filing or challenge by the subject, you will be furnished a certification certifying in writing that the applicable provisions of the Act have been complied with prior to obtaining the requested records. Upon your receipt of a Certificate of Compliance with the Right to Financial Privacy Act of 1978, you will be relieved of any possible liability to the subject in connection with the disclosure of the requested financial records.

[Signature]
[Name and title of official]
[DoD Component]
[Telephone]

Enclosure 4

Certificate of Compliance With the Right to Financial Privacy Act of 1978

[Official letterhead]

[Date]

To: [Name and address of financial institution]

From: [Name and address of the DoD Component]

Subject: Certificate of Compliance with the Right to Financial Privacy Act of 1978

I Certify, pursuant to section 3403(b) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., that the applicable provisions of that statute have been complied with as to the [Customer's consent, search warrant or judicial subpoena, formal written request, emergency access, as applicable] presented on [Date], for the following financial records of [Customer's name]:

(Describe the specific records]

[Signature]
[Name and title of official]
[DoD Component]
[Telephone]

Pursuant to section 3417(c) of the Right to Financial Privacy Act of 1978, good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these financial records.

Enclosure 5

Customer Notice of Formal Written Request Format

[Official letterhead]

[Date]

Mr./Ms. XXXXX X. XXXX,
1500 N. Main Street, Washington, DC

Dear Mr./Ms. XXXX: Information or records concerning your transactions held by the financial institution named in the attached request are being sought by the [agency/department] in accordance with the Right to Financial Privacy Act, of 1978, Title 12, United States Code, Section 3401 et seq., and [Component's implementing document], for the following purpose(s):

[List the purpose(s)]

If you desire that such records or information not be made available, you must:

1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts:

[List applicable courts]

3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to: [Give title and address].

4. Be prepared to come to court and present your position in further detail.

5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of 10 days from the date of personal service or 14 days from the date of mailing of this notice, the records or information requested therein may be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer.

[Signature]
[Name and title of official]
[DoD Component]
[Telephone]

Attachments–3

1. Copy of request
2. Motion papers
3. Sworn statement

O. J. Williford,

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

March 14, 1980.

[FR Doc. 80-8380 Filed 3-18-80; 8:45 am]
BILLING CODE 3810-70-M

Department of the Navy

32 CFR Part 706

Navigation; Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USS Jacksonville (SSN 699) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS Jacksonville (SSN 699) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 20, 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Charles Stanley Prentace, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C. 20370, Telephone number (202) 694–5188.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS Jacksonville (SSN 699) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) regarding the arc of visibility and location of the stern light; Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS Jacksonville (SSN 699) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS Jacksonville (SSN 699).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. The third Table One of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height § 2(a)(i) Annex I
* * * * *		
USS Bremerton	SSN 698	
USS Jacksonville	SSN 699	3.35
* * * * *		

2. The fourth Table Three of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	No.	Masthead light, arc of visibility; rule 21(a)	Sidelights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), annex I
*	*	*	*	*	*	*	*	*
U.S.S. Bremerton	SSN 698	* * *	* * *	* * *	* * *	* * *	* * *	* * *
U.S.S. Jacksonville	SSN 699	.....	.....	211'	4.2	6.1	3.5	1.7 below.
*	*	*	*	*	*	*	*	*

(EO 11964 and 33 U.S.C. § 1605)

Effective Date: The effective date of this amendment will be February 20, 1980.

Dated: February 20, 1980.

Edward Hidalgo,

Secretary of the Navy.

[FR Doc. 80-8382 Filed 3-18-80; 8:45 am]

BILLING CODE 3810-71-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5A-1, 5A-2, 5A-3, and 5-16

[APD 2800.3 CHGE 4]

Procurement Regulations; Miscellaneous Amendments

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations (GSPR 5A) are amended to provide updated contract numbering designations reflecting recent reorganizations, delete obsolete contract award codes, include a revised illustration of a GSA form used as an application for presenting new articles, require specific circumstances to support priority designator when used to justify negotiation under the public exigency authority, and clarify the use of the "all or none" offers provision. These actions resulted from a reorganization, changes in procurement reporting requirements, and misunderstandings regarding the use of the "all or none" offers provision. The effect of these changes is to improve the procurement system.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (703) 557-8947.

PART 5A-1—GENERAL

Subpart 5A-1.3—General Policies

Section 5A-1.352-2 is amended to revise paragraphs (c), (d), (e), and (f) as follows:

§ 5A-1.352-2 Numbering system.

* * * * *

(c) Each contract number shall be prefixed by use of the symbol "GS" and the appropriate activity designation set forth in paragraphs (d) and (e) of this subsection, without dashes.

(d) * * *

00 Central Office
0W National Capital Region
01 Region 1
02 Region 2
03 Region 3
04 Region 4
05 Region 5
06 Region 6
07 Region 7
08 Region 8
09 Region 9
10 Region 10

(e) The following designation shall be used to identify the procuring office:

C Automated Data and Telecommunications Service
B Public Buildings Service
E Office of Human Resources and Organizations
F Office of Plans, Programs, and Financial Management
S Federal Supply Service (Office of Contracts)
T Transportation and Public Utilities Service
D Federal Property Resources Service

(f) An example of the numbering system is: GS02S00001.

(1) * * *

(2) * * *

(3) The letter "S" identifies the procuring office, in this case the Federal Supply Service.

(4) * * *

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

The table of contents for Part 5A-2 is amended by revising the following entry:

Sec.

* * * * *

§ 5A-2.201-73 "All or None" offers.

* * * * *

Section 5A-2.201-73 is revised as follows:

§ 5A-2.201-73 "All or None" offers.

The following provision applies to definite quantity and indefinite quantity types of contracts. the requirements of this provision shall be followed by contracting officers in their evaluation of offers. (See FPR 1-2.404-5 for additional instructions regarding "all or none" qualifications, and GSPR 5A-2.201-54 for weighting of items for aggregate awards (indefinite quantity contracts).

"All or None" Offers

(a) Unless awards in the aggregate are specifically precluded in this solicitation, the Government reserves the right to evaluate offers and make awards on an "all or none" basis as provided below.

(b) (Applicable to definite quantity contracts.) An offer submitted on an "all or none" or similar basis will be evaluated as follows: The lowest acceptable offer exclusive of the "all or none" offer will be selected with respect to each item (or group of items when the solicitation provides for aggregate awards) and the total cost of all items thus determined shall be compared with the total of the lowest acceptable "all or none" offer. Award will be made so as to result in the lowest total cost to the Government.

(c) (Applicable only to requirements and indefinite quantity contracts.) An offer submitted on an "all or none" or similar basis will not be considered unless the offer is low on each item to which the "all or none" offer is made applicable. The term "each item" as used in this clause refers either to an item that under the terms of the solicitation may be independently awarded, or to a group of items on which an award is to be made in the aggregate.

(End of clause)

Subpart 5A-2.4—Opening of Bids and Award of Contract

Section 5A-2.407-84 is amended by revising paragraphs (c), (d), and (e) as follows:

§ 5A-2.407-84 Notification of proposed substantial awards and awards involving Congressional interest.

* * * * *

(c) * * *

(1) *DQ* for definite quantity contract;

(2) *FSS* for Federal Supply Schedule contract;

(3) *TC* for term contract other than Federal Supply Schedule;

(4) *S* for small business concern;

(5) *O* for other than a small business concern;

(6) *NLS* for not labor surplus area; and

(7) *LS* for labor surplus area.

(d) Notification procedure.

(1) The director (or his or her equivalent) of the procurement activity (central office or regional office) shall be responsible for submitting directly to the Director of Congressional and Intergovernmental Relations (XK) complete and factual data pertinent to any proposed award of the type described in paragraph (a) of this section.

(2) Regional offices (except Region W) shall prepare GSA Form 2932 and transmit the notification directly to the Director of Congressional and Intergovernmental Relations (XK), by facsimile machine except as shown in paragraph (d)(4) of this section.

(i) Telephone numbers for transmittal of facsimile messages of the notifications are as follows (area code 202): 472-1217; 632-3626; 632-7944; and 632-7945.

(ii) Messages should be directed to the attention of XK, GS Building, Room 6114.

(3) Central Office and Region W procurement activities shall prepare GSA Form 2932 and transmit the notification (original only) directly to the Director of Congressional Affairs (XK). The notification(s) shall be placed in a messenger envelope and addressed as follows: "Please Hand-Carry Attention: XK, GS Bldg., Room 6114."

(4) Notifications covering regional proposed awards which require Central Office concurrence or approval pursuant to the GSA Delegations of Authority Manual (ADM P 5450.39A) shall be submitted as part of the case file to the Central Office. The notification shall be transmitted to the Director of Congressional Affairs (XK) by the office rendering concurrence in the proposed award.

(5) * * *

(e) Release of awards.

(1) Unless notified to the contrary, commodity centers and regional and Central Office procurement activities may release awards of the type described in (d)(2) thru (4), above, or information pertinent thereto, upon the expiration of 2 full workdays (48 hours) after the time and date of transmittal of the GSA Form 2932 or the facsimile message to the Director of the Congressional Affairs (XK).

(2) The procurement activities shall be responsible for submission of a copy of GSA Form 2932, marked COPY, to the Value Engineering Division (FREV) after release of the award. The notification copy shall indicate the date of awards and include the contract number assigned.

(3) Pre-award release inquiries from offerors shall be processed in accordance with § 5A-2.407-1(c).

(f) * * *

PART 5A-3—PROCUREMENT BY NEGOTIATION

Subpart 5A-3.2—Circumstances Permitting Negotiation

Section 5A-3.202 is amended by revising paragraph (b) as follows:

§ 5A-3.202 Public exigency.

* * * * *

(b) Military purchase requests citing an issue priority designator assigned in accordance with DoD Uniform Materiel Movement and Issue Priority System (UMMIPS) as prescribed by DoD Directive 4410.6, and civilian agency purchase requests citing a priority designator 03 or 06, prescribed by the FEDSTRIP Operating Guide, ch. 2-15, may justify negotiation under this or other negotiation authority, but in such cases the specific circumstances must be set forth in the findings and determination to be made by the contracting officer. These issue priority designators are to be generated and provided only by the requisitioning activity to a requestor and cannot be generated by anyone else for the purpose of conforming or upgrading the priority designator to a requested delivery date.

* * * * *

PART 5A-16—PROCUREMENT FORMS

Subpart 5A-16.9—Illustration of Forms

Note.—The form illustrated at § 5A-16.950-1171 is filed with the original document.

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

Dated: March 3, 1980.

Gerald McBride,

Assistant Administrator for Acquistion Policy.

[FR Doc. 80-8286 Filed 3-18-80; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[Docket No. 20490; FCC 80-86]

Procedural Requirements for the Domestic Public Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts new rule to codify the exemption of Multipoint Distribution Service (MDS) radio applications from any § 21.13(f)(1) procedural requirements of prior state certification. The Service, both as it is presently constituted and as it appears to be developing, is primarily interstate in nature.

EFFECTIVE DATE: April 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Lelia C. Brown, Common Carrier Bureau, (202) 632-7695.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of Parts 21 and 43 of the Commission's rules and regulations relative to various procedural requirements for the Domestic Public Radio Service; Second Report and Order (See also 40 FR 53398).

Adopted: February 28, 1980.

Released: March 13, 1980.

By the Commission: Commissioner Lee absent.

Introduction

1. This is a *Second Report and Order* in a rulemaking proceeding whose *Notice* (55 F.C.C. 2d 36) was duly published in the **Federal Register** at 40 FR 24021 (June 4, 1975). In general, this rulemaking proposed to amend Parts 21 and 43 of the Commission's Rules and Regulations in order to clarify various application requirements, implement new processing procedures, and otherwise modernize our regulations.[1] A *First Report and Order*, 55 F.C.C. 2d 744 (1975), initiated the automatic data processing of microwave radio applications with the adoption of new application content requirements. This *Second Report and Order* clarifies

[1] A companion proceeding adopted rules which clarified the common carrier radio consolidation or "cut-off" rule, redefined major application amendments, and established new legal procedures for the processing of common carrier radio applications, both microwave and mobile. *Report and Order* in Docket No. 19905, 60 F.C.C. 2d 549 (1976). Additional rulemakings are planned to focus upon the technical subparts of Part 21 in order to further implement automatic data processing and remove obsolete substantive requirements.

further the licensing procedure for Multipoint Distribution Service (MDS) carriers. Left for later consideration in this Docket are proposals concerning permissible engineering changes, non-affiliation requirements for television relay service, and the reporting of the actual cost of constructing authorized common carrier facilities.

Summary of Decision

2. As the result of our decision in *Midwest Corp.*, 53 F.C.C. 2d 294 (1975), we proposed to codify the exemption of MDS radio applications from Section 21.13(f)'s procedural requirement of a prior state certificate.[2] In addition to recognizing more explicitly the Federal interest in MDS service, we stated that we believed that this proposal would resolve administrative ambiguities hindering national development of this new service, in that it would appear to be a logical procedure for the Commission to determine initially the MDS radio licensees without the necessity of a prior state certificate. Based on the record of this proceeding, our review of MDS industry development, relevant statutes and Commission precedent, we conclude that the public interest would be served by adoption of our proposal. Accordingly, we are eliminating state certification as a requirement for MDS applications. We find that such a procedural requirement has not been, and would not be, administratively helpful to our authorization of MDS stations.

Comments of Parties

3. Comments on our *Notice* were filed July 25, 1975, by eighteen parties: American Telephone & Telegraph Company (AT&T); American Television & Communications Corporation (ATC); Dayton Communications Corporation (Dayton); Double B. Radio, Inc. (Double B); GTE Service Corporation (GTE); Jackson Signal Company (Jackson); Micro-TV, Inc. (Micro); Microband Corporation of America (Microband); Midwest Corporation (Midwest); Multipoint Communications, Inc.; Multi-Point Communication Services, Inc.; Multipoint Distribution Systems, Inc.; Multi-point Microwave Common Carrier Association (MMCCA); National Association of Radio-telephone Systems (NARS); National Association of Regulatory Utility Commissioners (NARUC); Southern Pacific Communications Corporation (SPCC); Taft Broadcasting Corporation (Taft); and United States Transmission Systems, Inc. (USTS).[3] Reply comments were received from GTE and MCI Telecommunications Corporation (MCI). In addition, the Chairman of the North Carolina Utilities Commission submitted a letter dated September 23, 1975, regarding MDS certification which appears to be relevant to this proceeding.[4]

4. Our proposal was endorsed by one group of MDS carriers—Microband, Dayton, Jackson, Midwest, Multipoint Communications, and Multipoint—who contended that MDS is significantly different from telephone exchange service, will be substantially interstate in operation and impact, and is being hindered in development by confusing state certification requirements. Another group of MDS carriers—Taft, Micro, Multi-Point, and Double B—acquiesced in the proposal, but stressed their belief that the Commission has no power to compel the filing of tariffs for alleged intrastate service even in the absence of state regulation.[5]

5. NARUC, however, strongly opposed our proposal and suggested an alternative summary dismissal procedure which it claimed would better "harmonize" state-federal common carrier responsibilities. NARUC contended that our *Notice of Proposed Rulemaking* mooted whatever issues of law and fact were raised by the *Midwest* case, making unnecessary further argument on that case's legal sufficiency. Instead, NARUC claimed to address primarily the general policy issue, which, it declared, "is clearly rooted in jurisdictional notions" as "a practical, legal and realistic implementation of the dual state/federal jurisdiction over common carrier services mandated by the Communications Act, insofar as such services are provided by the medium of radio." In essence, NARUC argued that it would not be a logical procedure for the Commission to select MDS licensees in the absence of prior state certification. NARUC stated that any statutory finding which granted a MDS construction permit under Section 319 of the Act [47 U.S.C. § 319] would be "legally infirm" for failing to consider the critical factual question of whether an MDS licensee could lawfully provide service in the absence of a state certificate. Regardless of interconnection, or an interstate source of program content, NARUC contended that an MDS station's service area must be local in character due to physical limitations on its radio transmission capabilities. Consequently, NARUC claimed that there could be only one group of subscribers served by proposed stations and this group must be a local one which could not be divided into a "national" and a "local" audience. Since Congress intended to preserve local regulation of local common carrier radio services, NARUC argued that "MDS is the conceptual equivalent, for regulatory proposes, of telephone exchange service even though the nature of the two communication services may be quite distinct, from a purely factual standpoint." In view of these alleged jurisdictional realities, NARUC concluded that it is not logical for the Commission to evaluate what are inherently local needs for this radio service, or to hold Federal comparative hearings prior to state certification.

6. Instead, NARUC suggested that a "summary dismissal" procedure be applied to mutually exclusive MDS applications after the "cut-off" date for their filing acceptability. Under this proposal, an uncertificated MDS applicant, who was mutually exclusive with a state certificated applicant, would continue to be eligible for a comparative hearing only if:

(1) He could demonstrate no intrastate service proposal—something which NARUC contended "would rarely, if ever, be applicable * * *";

(2) He could show that the state in question did not certificate MDS carriers—in which case the mutually exclusive applicants would be required to obtain a state determination which would then be binding under the doctrine of *Erie R. Company* v. *Tompkins*, 304 U.S. 64 (1938), to prevent the Commission from making its own

[2] Section 21.13(f) was formerly Section 21.15(c)(4). *First Report and Order* in Docket No. 20490, 55 F.C.C. 2d 744, 746 (1975).

[3] Because of a clerical error, the timely filed joint comments of Microband, Multipoint Communications, Dayton, Midwest, Multi-Point Communication and Jackson Signal were inadvertently excluded from the list of comments in this proceeding's *First Report and Order*.

[4] To clarify any uncertainty in *Midwest* regarding the position of North Carolina Utilities Commission, the letter stated in part:

"In order that there may be no doubt of the position of the North Carolina Utilities Commission, you are hereby advised that the construction and operation of any MDS service in North Carolina, without a Certificate of Public Convenience and Necessity from the North Carolina Utilities Commission authorizing such operation, would be unlawful under North Carolina law; and the North Carolina Utilities Commission will take whatever action is necessary to secure compliance with North Carolina law in this connection."

[5] Since the facts of *Midwest* concerned our radio licensing rather than full Title II common carrier jurisdiction, we did not consider the applicability of Section 202(b) (as raised by respondents there), or the Section 2(b) exemptions to MDS. *But see, e.g., General Telephone Company of Southwest v. United States*, 449 F. 2d 846, 855 (5th Cir. 1971); *General Telephone Co. of California v. F.C.C.*, 413 F. 2d 390, 401–402 (D.C. Cir. 1969); *Ward v. Northern Ohio Telephone Co.*, 300 F. 2d 816 (1962); *Capital City Telephone Company*, 3 F.C.C. 189, 193 (1936); *Intrastate Telephone Company*, 3 F.C.C. 170 (1936).

determination as to the scope, or procedural implementation, of state law; or

(3) He could show that the application of his state certificated rival was not eligible for a license under the Commission's rules, or raised extraordinary Federal public interest questions not considered in a state proceeding—in which case he would be permitted a further opportunity to obtain a state certificate. NARUC claimed that this prodedure would recognize the state regulatory interest in determining both the need for MDS service and the eligibility of potential licensees, and would deal with the mutually exclusive MDS applications accepted for filing prior to a state's assertion of certification jurisdiction.

Discussion

7. Before addressing these arguments, we should note briefly the administrative ambiguities which precipitated our proposal, as illustrated by the *Midwest* case. In general, *Midwest* involved the similar procedural, factual and jurisidictional contentions of two state certificated Domestic Public Land Mobile Radio Service (DPLMRS) carriers who were among the mutually exclusive applicants for MDS Channel 1 in Charlotte, North Caroline, and Jacksonville, Florida. Based upon advisory letters from the North Carolina and Florida public utility commissions, these radio telephone carriers sought the dismissal of their mutually exclusive rivals on the grounds that they lacked prior state certificates. In essence, the DPLMRS carriers argued that their existing state certificates compelled an immediate grant to them of the MDS licensees without a compartive hearing, even though their state certificates were issued for the rendition of mobile radio telephone service; their state certificates were issued before the creation of the MDS service; and their state certificates were not the result of a formal state proceeding as to state jurisdication, the service needs of those cities, or the comparative qualifications of existing DPLMRS carriers to met those MDS service needs.

8. In refusing to dismiss the uncertificated applications, we discussed at length questions relating to rule interpretations and our MDS radio licensing jurisdiction. Insofar as those issues may be pertinent here, we believe *Midwest* to be dispositive.[6] As for the procedural and policy questions raised by our proposals, the *Midwest* case concluded in part:

> Accordingly, it appears that our policy for MDS should recognize both the federal interest in MDS services and the rendition of interstate communications. For example, although MDS facilities do not appear suitable to reach a wholesale mass market for entertainment programming, their service characteristics are analogous to broadcasting and cable television, particularly where MDS stations provde a "pay television" transmission service to potentially substantial group audiences. The relationship of MDS to these analogous services, as well as program standards for intragroup communications, are among the federal regulatory issues raised by MDS service characteristics. *See, Greater Washington Ed. Telecommunications Ass'n Inc.*, 49 F.C.C. 2d 948, 949 (1974); *Notice of Proposed Rule Making* in Docket No. 19671, 39 F.C.C. 2d 527 (1973). Furthermore, we do not believe that a recognition of the capability of MDS to provide intrastate communications requires us to officially ignore the rendition of interstate service, particularly when only two channels are available to meet all service needs. Even if MDS service were to be predominantly local in its early development as the facilities needed for an extensive national network are built, we anticipate that national service demands will be substantial * * *.

Midwest Corporation, supra at 300–301.

9. Events since that 1975 opinion, as well as the comments submitted, have not persuaded us that MDS' general characteristics compel the use of the same administrative policy towards state certificates that is applied to telephone related services. For instance, MDS has become widely used by private programmers or film clubs to distribute "pay television" entertainment to apartment buildings, hotels, and cable television systems. *See Orth-O-Vision, Inc.*, 69 F.C.C. 2d 657 (1978); *First Report and Order* in Docket No. 20561 (*Definition of a Cable Television System*), 63 F.C.C. 2d 956, 990–998 (1977). Based upon the MDS annual reports required by Section 43.72 of the Rules, 63% of the national MDS transmission time sold in 1978 was used for private entertainment distribution. As of August 31, 1979, 44 operating MDS stations served over thirty different private "Pay TV" programmers.[7] These MDS Programmers served an estimated 210,000 persons directly, most of whom resided in apartment buildings or hotels.[8] Over 25,000 persons, however, were served in single family homes. Following the introduction in early 1977 of relatively low cost residential receive packages, increasing numbers of single family homes are being served by MDS.[9] Although MDS service is limited by the line-of-sight propagation characteristics of MDS' microwave signal, some believe that a large home market can be developed, not only for entertainment distribution, but for other broadband services as well.

10. MDS has become, then, another method of distribution for an increasing universe of programming sources. It is difficult to deny the federal interest in such service. *See Brookhaven Cable TV* v. *Kelly*, 573 F. 2d 765 (2d Cir. 1978), *cert. denied*, 99 S. Ct. 1991 (1979). Furthermore, as we foresaw in 1975, the bulk of the entertainment distribution is of interstate origin. One industry estimate is that approximately 65% of the operating MDS stations are receiving satellite program feeds, and 20% are receiving terrestrial microwave feeds.[10] As to the source of the interstate programming being carried, 53% is nationally originated by Home Box

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[6] *See also Orth-O-Vision, Inc.*, 69 F.C.C. 2d 657, 665–671 (1978); *People of California* v. *FCC, 567 F. 2d 84 (1977) NARUC was the only party to challenge explicitly our Midwest* opinion. In this regard, we note again that NARUC chose not to offer here any further legal arguments on our *Midwest* decision, despite what appear to be conclusionary assumptions on the scope of our radio licensing jurisdication. In the absence of explicit legal arguments which persuade us to the contrary, we believe that our *Midwest* opinions are dispostive. Consequently, this *Report and Order* centers on the policy and procedural aspects of prior state certification of MDS carriers.

[7] PAUL KAGAN ASSOCIATES, INC., THE MDS DATABOOK 2, 25–27 (October 1979). As of August 31, 1979, there were 44 MDS station licensed and operating, 24 MDS stations licensed, but not operating, and 69 stations in the process of construction. Because the Commission's present rules do not require routine reporting of subscriber information, information on MDS "Pay TV" programmers must be obtained from trade publications. *Report and Order* in Docket No. 19493, 45 F.C.C. 2d 616,626 (1974).

[8] The MDS DATABOOK, *supra* at 28. The industry estimates that it has penetrated 9% of a current potential market of 2,317,060 "Pay TV" subscribers. *Id.* These figures do not include the subscribers of cable television systems which receive and relay the MDS transmissions.

[9] Although earlier multiple address radio systems contemplated home reception, MDS is the first to serve a significant number of homes. *See Report and Order* in Docket No. 14744 (*Educational Television*), 39 F.C.C. 896, 847 (1963); *Report and Order* in Docket No. 3929, (*MacKay Radio and Telegraph Co.*), 39 F.C.C. 1, 9 (1939). When the industry began in 1971, MDS licensees used modified reception equipment developed for the Instructional Television Fixed Service at a cost of about $1,500 per receive site. Aggressive commercial development has reduced the cost of a complete downconverter/antenna receiving package to $100 or less, a significant technological development which points to a more generalized use of microwave radio frequencies in the future.

[10] Prepared Remarks of Arthur Lipper III on Pay TV Panel of 1979 National Cable Television Association Convention (May 21, 1979). Lipper is Chairman of Microband Corporation of America, the largest MDS carrier. Lipper estimated that approcimately 15% of the stations served programmers who originated their programs on video tape players in a local studio.

Office; 23% is nationally originated by Showtime; and 7% is nationally originated by Hollywood Home Theater.[11] Only five MDS programmers (whose use constitutes 17% of the total) do not use an interstate program feed.[12] MDS program networks evolved slowly because of concurrent delays in the authorization and construction of domestic communications satellites, receive-only earth stations, and, of course, the MDS terrestrial stations. Nevertheless, it now appears that over 80% of the operating MDS stations are serving as instrumentalities of interstate communication.

11. Nor has MDS service growth been limited to entertainment distribution. The 1978 annual reports reveal that 29% of the national airtime sold was for business users, primarily experimental data and facsimile distribution.[13] For example, Reuters News Service has begun to use the Chicago MDS station for the distribution of financial and commodity information. A large computer in New York feeds continuously updated information vial satellite to the Chicago MDS station. This computer's entire data base, with millions of bits of information, is constantly transmitted through the MDS station to Reuters' subscribers. They, in turn, selectively access the data base by means of special terminals with "row grabber" decoders. Another, more sophisticated system being envisioned would use a similar technique, in conjunction with some return channels, to "fill" selectively the memory chips of "smart terminals" with the data each requires for distributive data processing.[14] Also, two MDS carriers have introduced versions of the CEEFAX teletext systems, which permit data to be transmitted in the vertical blanking intervals of a standard television picture.

12. An outgrowth of business teleconferencing,[15] data and facsimile distribution services need national networks to access enough traffic to justify the large investment required for computer, terminal, and switching equipment. Also, business and government, the major customers for such services, require the ability to communicate, selectively or simultaneously, with widely scattered locations. Completely independent of the telephone system, multipoint networks are well suited to meet such needs. Locally, MDS station transmission costs tend to be distance and usage insensitive.[16] Hence, the stations have the ability to meet the local distribution requirements of many national groups, particularly if data transmissions are invovled. When these stations are interconnected by domestic satellite, whose costs also tend to be distance insensitive, an economically attractive network is available to meet the service needs of various national organizations for data and facsimile distribution. Although MDS stations are capable of rendering local service, these economic characteristics, coupled with the development work in progress, lead us to believe that the national service demands for MDS are, and continue to be, substantial. Consequently, we are unable to conclude that a recognition of the capability of MDS to provide some intrastate service compels our radio licensing to ignore the interstate service demands of MDS networks. *See North Carolina Utilities Commission* v. *F.C.C.*, 552 F. 2d 1036 (4th Cir. 1977).'

13. Nor do we believe that the characteristics of this new form of service require the continuation of a processing policy originally adopted in connection with telephone related facilities. Telephone exchange service, whether by wire or radio, may be generally characterized as the provision of two way voice communications between individuals by means of a central switching complex which interconnects all subscribers within a geographic area. In contrast, MDS utilizes what is essentially a broadcasting technology to distribute multiple addressed broadband communications (usually forms of television) simultaneously to the members of commercial and other institutional subscribers in accordance with their specific transmission. reception, and informational requirements. Although MDS transmissions are not disseminations intended to be received by the general public (as in the case of a broadcasting service), they are a distribution of information intended for simultaneous reception by potentially large numbers of geographically diverse individuals who comprise the membership of the institutional subscriber.[17] As the groups in our pluralistic society are many and varied, we have intended an MDS carrier to have the technical freedom to tailor his transmission service in order to exploit fully MDS technology and to meet appropriate, diverse group communications needs, *Metrock Corp.*, 73 F.C.C. 2d 802, 805–806 (1979); *Peabody Telephone Answering Service*, 55 F.C.C. 2d 626, 627, (1975); *Report and Order* in Docket No. 19493, 45 F.C.C. 2d 616, 623–624 (1974). Although the future technological and service development of this communications concept is not

[11] The MDS DATABOOK, *supra* at 28. In addition to these program feeds, a few MDS stations have begun within the last year to relay the signal of over-the-air television broadcasting stations, recently available via satellite. *See, e.g. United Video, Inc.*, 69 F.C.C. 2d 1629 (1978); *Southern Satellite Systems, Inc.*, 62 F.C.C. 2d 153 (1976).

[12] Of these five stations, four obtain programming from Television Program Services, an HBO division. The five stations are: Baltimore, MD: Honolulu, HI; Kansas City, KS; New Orleans, LA; and Salt Lake City, UT. THE MDS DATABOOK, *supra* at 28. Moreover, the stations in Kansas City and New Orleans are capable of serving points in adjacent states, and from this standpoint may be considered to be interstate stations.

[13] The remaining 8% of national airtime sold in 1978 was divided equally between educational and public service uses. The major educational use was for the Plato IV computer assisted learning system developed by the University of Illinois. An MDS channel can be configured for digital data applications in a variety of ways. For instance, a single 8 megabit per second digital stream can be transmitted. Alternatively, up to 6400 1200-bit per second channels can be multiplexed utilizing a Time Division Multiplex system.

[14] Technically, this would be a form of "point-to-multipoint accumulation service." As common carriers, MDS licensees are eligible under § 21.700 of the Rules [47 CFR § 21.700] to use common carrier point-to-point microwave frequencies as response channels. A more extensive use of response channels would make possible a "point-to-multipoint exchange service."

[15] Although originally envisioned as the major MDS use, business video teleconferencing proved to be overly expensive, inflexible, and dependent upon MDS and domestic satellite facilities, which, until recently, did not exist. For example, pilot continuing education programs for physicians (in St. Louis and Baltimore) and lawyers (in Washington) were discontinued because a lack of network facilities prevented spreading of the educational program production costs over more than one city. Also, national teleconferencing is more attractive than local teleconferencing because greater savings in travel expenses can be achieved. National teleconferencing, of course, requires network facilities.

[16] *See Ortho-O-Vision, Inc.*, 69 F.C.C. 2d 657, 669 (1978). The MDS stations omnidirectional transmission pattern is capable of reaching various points around the transmitter at roughly equal cost. Also, the monidirectional pattern permits different groups of points to be reached without the need for separate, dedicated facilities. Different network configurations are possible, then without costly additional equipment. Point-to-multipoint satellite service exhibits similar cost sharing characteristics. *See RCA American Communications Inc.*, 72 F.C.C. 2d 473, 477–478 (1979).

[17] Although they utilize a similar technology, multiple addressed radio communications have not been considered historically to be a braodcasting service because they are a distribution of information to specfied (or "addressed") fixed points rather than a dissemination of unaddressed information to an indefinite number of points. *Report of Department of Commerce Conference on Radio Telephony*, RADIO SERVICE BULLETIN No. 61, pg. 23, 26 (May 1, 1922); *see also Report and Orders* in Docket No. 20468, 60 F.C.C. 2d 700, 706–707, 728–729 (1976). It might be observed that multiple address fixed service has been limited traditionally because at lower frequencies it was considered a service to a relatively small number of points on frequencies whose omnidirectional progagation characteristics were much in demand for broadcasting to all points within a service area. *See, e.g. Scrambled Transmission by Educational TV*, 38 F.C.C. 2d 925 (1973), *Report of Department of Commerce Conference on Radio Telephone, supra*, at 26.

entirely clear at this time, these MDS characteristics complicate State-Federal common carrier jurisdictional classifications and raise Federal licensing questions as to the relationship of MDS to other services for which we are responsible.[18] They also imply issues somewhat analoguous to those in the broadcasting services, such as the access and program standards for intragroup communications, which appear to require national policies in the first instance to foster communications in which there is a strong federal interest. *See, Metrock Corp., supra; Greater Washington Ed. Telecommunications Ass'n Inc., supra.*

14. Consequently, we are unable to accept NARUC's contentions that MDS is strictly local in character, is unable to serve national communications requirements, and is the conceptual equivalent, for regulatory purposes, of telephone exchange service. In this latter regard we do not believe that Congress intended in Section 221(b) of the Communications Act that the term "telephone exchange service" mean anything more than its plain, ordinary meaning. As the court pointed out in *North Carolina Utilities Commission* v. *F.C.C.*, "the legislative history of [Section 221(b)] indicates that this restriction is intended to do no more than to prevent the circumstance that a telephone exchange serves an area that includes parts of more than one state from enlarging the jurisdiction of FCC over the business and facilities of that exchange." 537 F. 2d 787 (4th Cir. 1976).

15. In addition to complicating the development of national MDS Policy, we believe that to require interstate MDS stations to obtain a prior state certificate would unnecessarily disrupt authorization of the stations needed for national MDS service. As a practical matter, interstate service depends upon the availability of network outlets. As the number of stations increases, so does the amount of interstate service, for the attractiveness of any interstate network is dependent in large part upon its ability to offer a communications potential to many diverse points. To date, the Commission has authorized over 137 stations. Most of these stations, as they became operational, have become outlets for interstate service.

16. Consequently, we do not consider a prior state certificate procedural requirement to be beneficial to the public whose service is delayed, but not perceptively improved by such a requirement. In addition to depriving us of a choice of applicants best able to meet national service needs, such a requirement would interject an additional regulatory proceeding which would delay our authorization of stations needed for interstate service. Moreover, such a requirement would appear to be inequitable were it to force the dismissal of long pending competitive applications, the result sought in the *Midwest* case. Were one to accept the full implications of NARUC's arguments, such a requirement might even permit a state to prohibit stations and frustrate settled federal communications policy thereby. These adverse results would be particularly onerous at this time, because domestic satellites, in conjunction with increasingly inexpensive earth stations, now have the capability of providing the growing number of MDS stations with low cost interconnection to meet interstate traffic requirements. Consequently, as a matter of policy, we conclude that we should codify our *Midwest* decision and grant MDS applications proposing interstate service without a requirement that prior state certificates be obtained.

17. There remains the question of whether we should require all MDS stations to be able to render interstate service upon reasonable demand as a condition of radio license eligibility. As a practical matter, this appears to have already occurred. As indicated above, over 80% of the operating MDS stations are receiving interstate satellite or terrestrial program feeds. Strictly intrastate MDS uses are rare for a variety of reasons, including the lower program costs resulting from national program distribution, and the unattractiveness of local teleconferencing. Reflecting this experience, most pending applications are already proposing to offer some form of interstate service. Given this and the unlikely circumstance that a licensee would turn down any customer where transmission time is available, we believe that any formal requirement that an MDS station be able to render interstate service is unnecessary.

18. Although, as a practical matter, the rule change will require us to accept MDS applications and initially to select each MDS licensee without any requirement of a state certificate, we do not presently believe that our regulatory interest should exclude the legitimate concerns of a state. Of course, a state would have no jurisdiction to regulate interstate services provided by an MDS station. However, as recognized above, there may be some requirements for intrastate services. Thus, we see no objection at this time to state regulation of any intrastate MDS service as long as that regulation is not inconsistent with our national MDS regulatory policy, and does not burden the rendition of interstate MDS service.

Conclusions

19. In summary, in this proceeding we are codifying the findings made in *Midwest, supra.* As a matter of law, state certification is not a condition to our licensing of proposed offerors of MDS service.[19] Nor are we able to find that such a requirement is, or would be, administratively helpful to our authorization of MDS stations. The service, both as it is presently constituted and as it appears to be developing, is primarily interstate in nature. But even where intrastate service may be involved, the federal interests expressed in Sections 1 and 303(g) of the Act would best be served by avoiding such a requirement since a prior state proceeding could, among other things, limit the number of applicants among whom a MDS licensee could be chosen and eliminate from consideration some who may be best able to meet interstate service needs. It is obvious that the characteristics of this service—multiple addressed broadband communications from a subscriber to a number of selected points—differ substantially from telephone exchange service. Accordingly, requiring prior state certification for the latter in no manner supports the same requirement for MDS.

20. In view of the foregoing, we conclude that the public interest would be served by adoption of the revised rule as set forth in the Appendix hereto.

21. Accordingly, *it is hereby ordered,* That pursuant to authority contained in Sections 1, 2(a), 4(i), 201–205, 214, 301, 303, 308 and 309 of the Communications Act of 1934 [47 U.S.C. §§ 151, 152(a), 154(i), 201–205, 214, 301, 303, 308 and 309] Part 21 of the Commissions Rules and Regulation IS AMENDED, as set forth in the attached Appendix, effective April 21, 1980.

(Secs. 1, 2, 4, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087,

[18] *See, Notice of Proposed Rulemaking* in Docket No. 19671, *supra. Compare Report and Order* in Docket No. 9552 (*Theater Television Service*), 9 Pike & Fischer Radio Regulations 1528 (1953), *with Further Notice of Proposed Rulemaking and Notice of Inquiry* in Docket No. 11279 (*Subscription Television Inquiry*), 7 Pike & Fisher Radio Regulations 2d 1501 (1966), and *KMLA Broadcast Corp.* v. *Twentieth Century Cig. Vend. Corp.*, 264 F. Supp. 35 (C.D. Calif. 1967), *with Functional Music, Inc.* v. *F.C.C.*, 274 F. 2d 543 (D.C. Cir. 1958).

[19] This action is consistent with the amendment of Part 22 of the Rules eliminating state certification as a requirement of applications in the DPLMRS. *First Report and Order* in Docket No. 20870, 69 F.C.C. 2d 398 (1978).

1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 21 of Chapter I, Title 47, of the Code of Federal Regulations is amended as follows:

1. Section 21.13(f)(1) is revised to read as follows:

§ 21.13 General application requirements.

* * * * *

(f)(1) Except for applications in the Multipoint Distribution Service, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities, where required by applicable local laws. If no such local requirement exists, or if Commission authority is a prerequisite for such authorization, a statement explaining the reasons for this opinion shall be included in the application.

* * * * *

[FR Doc. 80-8421 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-216; RM-3331]

FM Assignment to Martinez, Ga.; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Martinez, Georgia, in response to a petition filed by R. E. Watkins, Jr., and Patrick G. Blanchard. The proposed channel would provide for a station which could render a first local aural broadcast service to Martinez.

EFFECTIVE DATE: April 25, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 5, 1980.

Released: March 14, 1980.

By the Chief, Policy and Rules Division:

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted August 30, 1979, 44 FR 53551, which invited comments on a proposal to assign Channel 232A to Martinez, Georgia, as its first FM assignment, in response to a petition filed by R. E. Watkins, Jr., and Patrick G. Blanchard ("petitioners"). Supporting comments were filed by petitioners in which they reaffirmed their intention to file for the channel, if assigned. An opposition was filed by Walter A. Brumbeloe, General Manager of Stations WTBH(AM) and WZZW-FM, Augusta, Georgia.

2. Martinez,[1] an unincorporated community in Columbia County (pop. 22,237),[2] is located approximately 8 kilometers (5 miles) northwest of Augusta, Georgia. There is no local aural broadcast service in Martinez.

3. In support of their proposal, petitioners submitted information with respect to Martinez which is persuasive as to its need for a first FM assignment.

4. In opposition, Mr. Brumbeloe argues that the Augusta area is served by seventeen AM and FM commercial radio stations and three commercial television stations. He contends that another radio station in the Augusta market could be competitively harmful to the overall picture.

5. We believe that it is in the public interest to assign Channel 232A to Martinez, Georgia. The argument made by Mr. Brumbeloe concerning the competitive impact of another radio station in the market is a matter properly deferred for resolution at the application stage rather than in a rule making context.[3] An FM channel here would provide for a first local station which could broadcast programs directed to meeting the special needs and interests of Martinez.

6. Authority for the adoption of the amendment contained herein appears 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 of the Commission's Rules.

7. In view of the foregoing, it is ordered, That effective April 25, 1980, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City	Channel No.
Martinez, Ga	232A

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-8316 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Petitioners attached a letter from the Planning Director of the Columbia County Planning and Zoning Commission which indicates that the Martinez Voting District had a 1970 population of 5,285 which is estimated to have increased to 8,289 in 1977.

[2] Population figure is taken from the 1970 U.S. Census.

[3] See *Carroll Broadcasting Co.* v. *F.C.C.*, 258 F. 2d 440 (D.C. Cir. 1958), and *Adrian, Michigan*, 37 F.C.C. 2d 1021 (1972).

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47 CFR Part 73

[BC Docket No. 79-261; RM-3412]

FM Assignment to Warrensburg, Mo.; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first Class A channel to Warrensburg, Missouri, in response to a petition filed by Big Country of Missouri, Inc. The proposed channel can be used to provide for a first FM broadcast service to the community.

EFFECTIVE DATE: April 25, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 5, 1980.

Released: March 14, 1980.

By the Chief, Policy and Rules Division:

1. On October 3, 1979, the Commission adopted a *Notice of Proposed Rule Making*, 44 Fed. Reg. 58763, proposing the assignment of FM Channel 288A to Warrensburg, Missouri, as its first FM channel, in response to a petition filed by Big Country of Missouri, Inc. ("petitioner"). In comments petitioner reaffirmed its intention to file for the channel, if assigned. No oppositions to the proposal have been received.

2. Warrensburg (pop. 13,125),[1] seat of Johnson County (pop. 34,172), is located approximately 80 kilometers (50 miles) southeast of Kansas City, Missouri. It is served locally by fulltime AM Station KOKO and noncommercial educational Station KCMW (Channel 215).

3. Petitioner claims that Warrensburg has had a 36% population increase between 1960–1970. It states that the economic base of Warrensburg and Johnson County is comprised of agriculture, manufacturing and education. Petitioner has submitted

[1] Population figures are taken from the 1970 U.S. Census.

persuasive information with respect to Warrensburg and its need for a first commercial FM assignment.

4. Upon careful consideration of the proposal, the Commission believes it would be in the public interest to assign Channel 288A to Warrensburg, Missouri. An interest has been shown for its use, and the assignment would provide for an FM station which could render a first local commercial broadcast service to the community.

5. Authority for the adoption of the amendment contained herein appears 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.

6. In view of the foregoing, it is ordered, that effective April 25, 1980, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City	Channel No.
Warrensburg, Mo	288A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-8281 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-214; RM-3382]

FM Assignment to Buckhannon, W. Va.; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Buckhannon, West Virginia, as a first FM assignment, in response to a petition filed by the West Virginia Wesleyan College. The proposed channel could be used to provide a first fulltime local aural service to Buckhannon.

EFFECTIVE DATE: April 25, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: March 5, 1980.

Released: March 14, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, adopted August 28, 1979, 44 FR 53550, proposing the assignment of Channel 228A as a first FM assignment to Buckhannon, West Virginia. The *Notice* was issued in response to a petition filed by the West Virginia Wesleyan College ("petitioner"), licensee of noncommercial educational Station WVWC at the college in Buckhannon. Petitioner filed supporting comments reaffirming its intention to file for the channel, if assigned. Comments were also received from Station WBUC, Inc., Buckhannon, West Virginia, stating that it, too, would apply for the channel, if assigned.

2. Buckhannon (pop. 7,261),[1] in Upshur County (pop. 19,092), is located approximately 109 kilometers (68 miles) east of Parkersburg, West Virginia. It is served locally by daytime-only AM Station WBUC.

3. Petitioner has submitted sufficient information which is persuasive as to its need for a first fulltime local aural broadcast service.

4. In the *Notice* we noted that petitioner pointed out that since Upshur County was in the "Quiet Zone" of the National Radio Astronomy Observatory ("NRAO") at Green Bank, West Virginia, and also the Naval Installation at Sugar Grove, West Virginia, it contacted these units and stated that both had given their approval of a 100-watt station with certain limitations. Petitioner was requested to state in comments the nature of these limitations. It asserts that NRAO, by letter of November 14, 1978, indicated that the antenna would have to be changed to provide a null of at least 10 dB in the direction of Green Bank, but indicated that it had no objection to a 100-watt operation and that, in any case, no modifications to the antenna would be necessary. Petitioner adds that, by letter of January 24, 1979, the Naval Research Laboratory indicated that only a small amount of antenna pattern control is necessary. Petitioner states that it has been assured by its engineering consultants that the necessary adjustments can be made to afford the protection required.

[1] Population figures are taken from the 1970 U.S. Census.

5. The Canadian Government has given its concurrence to the proposed assignment of Channel 228A to Buckhannon, West Virginia.

6. We have given careful consideration to the proposal and believe that Channel 228A should be assigned to Buckhannon, West Virginia. Interest has been shown for its use and the assignment would provide the community with an opportunity to acquire its first fulltime local broadcast service.

7. 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.

8. In view of the foregoing, it is ordered, that effective April 25, 1980, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Buckhannon, West Virginia, IS AMENDED to read as follows:

City	Channel No.
Buckhannon, W. Va	228A

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083, 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-8318 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Green, Loggerhead, and Olive Ridley Sea Turtles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Clarification of final rule.

SUMMARY: The Service clarifies previously published rules (43 FR 32808; July 28, 1978) governing interstate shipment and sale of certain threatened sea turtles and permit requirements for scientific purposes or enhancement of propagation or survival. The publication of the rules provided a "grace period" contingent on a subsequent publication

by the Environmental Protection Agency (EPA) of a notice of availability and effect of an environmental impact statement (EIS) on the rule. The grace period has now expired and no longer applies; this clarification eliminates any confusion regarding its expiration date.

EFFECTIVE DATE: This amendment is effective March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Clark Bavin, Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Background

Rules published in 43 FR 32808 on July 28, 1978, listed the green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), and olive ridley sea turtle (*Lepidochelys olivacea*), as threatened species under the Endangered Species Act and issued special rules for their protection. The rules were effective 30 days after a publication in the **Federal Register** by the EPA regarding the availability of a final EIS with a one-year "grace period" before the prohibitions of § 17.21 (e) and (f) became effective. Those sections provide prohibitions on the interstate commerce and sale of the three species of sea turtles. Permit regulations under § 17.42 (b)(2)(ii) provided that activities related to scientific purposes, enhancement of propagation or survival purposes for the threatened sea turtles could continue without permit up to 90 days after the effective date of the rules. The EIS was published in 43 FR 34479 on August 4, 1978, thus making the provisions of § 17.42 (b)(1)(iv) and (b)(2)(ii) no longer effective.

Since the amendments clarify the special rules and do not change the rules or their effective date, the Service has determined that it is in the interest of the public and unnecessary to follow the notice and comment procedures and that the amendments should be effective upon the date of publication.

Furthermore, these clarifications are not "rules" as defined in 43 CFR Part 14 and therefore the procedures of that Part do not apply. The primary author of this document is Helen M. Morrison, Management Analyst, Division of Financial and Management Systems.

Accordingly, the text of 50 CFR 17.42(b) is amended as follows:

§ 17.42 [Amended]

In paragraph (b) of § 17.42, subparagraphs (1)(iv) and (2)(ii) are deleted and reserved.

Dated: February 20, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-8299 Filed 3-18-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 55
Wednesday, March 19, 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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Proposed Revisions of Regulations Pertaining to Nonimmigrant "F-1" Students in the United States

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking proposes elimination of the duration of status for nonimmigrant students; proposes to require all nonimmigrant students in the United States attending a post-secondary school to report to the Service and provide information as to residence and maintenance of status; and proposes to add a new provision to establish uniform criteria for the reinstatement of nonimmigrant students to lawful status by district directors. These changes are being made in order to provide the Attorney General with the information he needs to fulfill his statutory responsibilities to enforce the Immigration and Nationality Act, and to provide a uniform manner by which students may apply for and be granted reinstatement of student status by Service district directors.

DATES: Representations must be received on or before May 19, 1980.

ADDRESSES: Please submit written representations, in duplicate, to the COMMISSIONER OF IMMIGRATION AND NATURALIZATION, Room 7100, 425 Eye Street, N.W., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633-3048

For specific information: R. E. Coughlon, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633-3946

SUPPLEMENTARY INFORMATION:

Amendments are being proposed to 8 CFR Part 214 which will eliminate duration of status admission of nonimmigrant students. Additionally, it is proposed to require all nonimmigrant students in the United States attending a post-secondary school to report to the Immigration and Naturalization Service and provide information as to residence and maintenance of status. At the time of reporting, students previously granted "duration of status" will have their indefinite period of stay converted to a specific period of time not to exceed one year. Thereafter they may apply for extensions of stay in increments of one year to complete their studies. Applications for transfer of schools may only be made in the Service office having jurisdiction over the school which he/she was last authorized to attend.

Prior to January 1, 1979, the Service granted duration of status only to certain authorized representatives of foreign governments serving their countries in the United States in an official capacity. The status of such aliens was dependent upon their continued employment with the foreign government.

Because of the vast numbers of foreign students in the United States and the continual need to process applications for extension of stay, it was believed that the duration of status rule could be expanded to include foreign students studying in this country. Accordingly, the proposed rules were drafted and published in the **Federal Register**. Comments were received and reviewed.

On November 22, 1978 the final rules were published at 43 FR 54618 to be effective on January 1, 1979. Thereafter, students have been admitted for duration of status if their intended course of study exceeds one year. Students already in the United States were converted to duration of status upon application.

Events of the past year have focused attention upon nonimmigrant students and caused the Service to reevaluate its position. We believe that more effective controls on students are required in order for the INS to fulfill its statutory responsibilities. It has been shown that the present system has contributed to problems in record keeping.

These changes are being made in order to provide the Attorney General, through the Immigration and Naturalization Service, with necessary information and control to accomplish the duty of enforcement of the Immigration and Nationality Act.

Therefore, amendments, as set forth below, will be proposed to 8 CFR 214.2(f)(2), (3), (4), (5) and (6), and 8 CFR 214.5. The purpose of these proposed amendments is to enable the Service to ensure that foreign students are maintaining status and to provide the Service with adequate records concerning nonimmigrant students.

The Service also proposes a further amendment to 8 CFR 214.2(f) to establish uniform criteria for the reinstatement of students to lawful nonimmigrant status by Service district directors. Under the current system, district directors exercise this authority on a case-by-case basis without any specific guidance in Service regulations or operations instructions.

Basically, reinstatement could be granted in situations where the student overstayed or otherwise violated status through circumstances beyond his control or in hardship cases. Students who worked without authorization or who were deportable on grounds other than overstay or failure to maintain status would not be eligible for reinstatement. In addition, a student who changed schools without having applied for authorization would not be considered eligible for reinstatement unless he/she could show considerable hardship or that the failure to request permission was due to circumstances beyond his control. The latter represents a change from current operating policies which generally would allow a student who has changed schools without having applied for authorization to be reinstated in certain circumstances. In order to establish a system of student controls, it is absolutely essential that the Service have accurate information as to what school a nonimmigrant student is attending. Therefore, changing schools without having sought permission will be considered a substantive violation which will bar reinstatement. The regulation specifically provides that the student's eligibility for reinstatement shall not preclude him from receiving deferred

action treatment or voluntary departure under the applicable Service procedures. Thus, an out of status student who is ineligible for reinstatement may still be allowed to remain in the United States for a period of time for humanitarian or other compelling reasons.

Therefore, it is proposed to amend 8 CFR 214.2(f) by adding a new subparagraph (8) to contain regulations providing uniform criteria for the reinstatement of nonimmigrant students to lawful status by district directors.

In the light of the foregoing, the following amendments are proposed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 214—NONIMMIGRANT CLASSES

1. It is proposed to revise 8 CFR 214.2(f)(2) as set forth below:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) *Students.* * * *

(2) *Admission.*

A nonimmigrant who has a classification under section 101(a)(15)(F)(i) of the Act shall not be eligible for admission unless he/she establishes that he/she is destined to and intends to attend the school specified in his/her visa or the school specified on Form I–94 presented by a student returning from a temporary absence in accordance with subparagraph (3) of this paragraph. In all cases, the name of the school a student is authorized to attend shall be endorsed by the examining immigration officer on the student's Form I–94. The period of admission for a nonimmigrant student shall be for the period of time necessary to complete the course of study indicated on Form I–20, unless such period exceeds one year, in which event the authorized period of admission shall be limited to one year. Extensions of stay may be applied for in conjunction with subparagraph (5) of this paragraph.

* * * * *

2. It is proposed to amend 8 CFR 214.2(f)(3) by revising the second sentence. As amended, 8 CFR 214.2(f)(3) is proposed to read as follows:

* * * * *

(f) * * *

(3) *Temporary absence.* Form I–20 presented by a student returning from a temporary absence may be retained by him/her and used for any number of reentries within one year of the date of its issuance. However, a Canadian national or an alien landed immigrant of Canada who has a common nationality with Canadian nationals who has been temporarily absent in Canada, or any alien whose visa is considered to be automatically revalidated pursuant to 22 CFR 41.125(f)(2) or is within the purview of that regulation except that his/her nonimmigrant visa has not expired, returning to the United States as a nonimmigrant under section 101(a)(15)(F)(i) of the Act, shall, if otherwise admissible, be readmitted, without presentation of Form I–20, for the remainder of his/her initial admission or current extension of stay as shown on Form I–94, privided a specific expiration of status date is shown thereon.

* * * * *

3. It is proposed to amend 8 CFR 214.2(f)(4) by revising the second sentence by deleting the clause at its end which begins with the word "however". As amended, 8 CFR 214.2(f)(4) is proposed to read as follows:

* * * * *

(f) * * *

(4) *School transfer.* A student shall not be eligible to transfer to another school unless he submits a valid Form I–20 completed by that school and the Service grants him permission to transfer. Application for transfer shall be made on Form I–538 and shall be filed in the Service office having jurisdiction over the school which he was last authorized by the Service to attend. Permission to transfer may be granted only if the applicant establishes that he/she is a bona fide nonimmigrant student, that he/she intends to take a full course of study at the school to which he/she wishes to transfer, and that he/she in fact was a full-time student at the school which he/she was last authorized by the Service to attend, unless failure to commence or continue full-time attendance was due to circumstances beyond his/her control or was otherwise justified. The name of the school to which transfer is authorized shall be endorsed on the student's Form I–94.

* * * * *

4. It is proposed to revise 8 CFR 214.2(f)(5), by revising the title and text as set forth below:

* * * * *

(f) * * *

(5) *Extension and duration of status.* A nonimmigrant student in the United States in accordance with section 101(a)(15)(F)(i) of the Act who has been granted permission to remain in the United States for his/her duration of status as a student is hereby notified that such indefinite status is revoked as of the last day of the calendar month in which he/she is required to report in accordance with 8 CFR 214.5 or, if not required to so report, as of the last day of the sixth full calendar month immediately following the effective date of this regulation. Extensions of stay may be granted in increments not to exceed one year if the student establishes that he/she is currently maintaining student status and is able and in good faith intends to continue to maintain such status for the period for which the extension is requested. Application for extension of stay shall be made on Form I–538. A student who desires an extension of stay for his spouse and children in a classification under section 101(a)(15)(F)(ii) of the Act may include them in his/her application. A student's spouse or child shall not be eligible for an extension of stay unless the student is eligible for an extension of stay. A student who has been compelled by illness to interrupt his/her schooling may be granted an extension of stay without being required to change his/her nonimmigrant classification if he/she establishes that he/she will resume a full course of study after treatment.

* * * * *

5. It is proposed to amend 8 CFR 214.2(f)(6) by revising the first three sentences, and by adding new sentences 8 and 9 at the end thereof. As amended, 8 CFR 214.2(f)(6) is proposed to read as follows:

* * * * *

(f) * * *

(6) *Employment.* A nonimmigrant who has a classification under section 101(a)(15)(F)(i) of the Act is not permitted to engage in off-campus employment in the United States, either for an employer or independently, unless specifically authorized by the Service after the following conditions are met: (i) The student is carrying a full course of study as defined in subparagraph (1a) of this section; (ii) the student has demonstrated economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification; (iii) the student has demonstrated that acceptance of employment will not interfere with his/her carrying a full course of study; (iv) the student has agreed that employment while school is in session will not exceed 20 hours per week; and (v) the student has submitted to an authorized official of a school approved by the Attorney General a Form I–538, and this form has been certified by that official that all the aforementioned requirements have been met. The authorized official of the school or the student will submit the certified Form I–

538 containing his recommendation together with the student's Form I–94 to the Service office which has jurisdiction over the place where the school is located. The student does not have permission to accept employment until he/she receives the Form I–94 endorsed by the Service to that effect. Permission granted under this paragraph allows a student to work no more than 20 hours per week while school is in session and full time when the school is not in session, including the summer if the student is eligible and intends to register for the next following term. On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study, if related thereto. A student who is offered this kind of on-campus employment, or any other on-campus employment which will not displace a United States resident, does not require Service permission to be engaged in such employment. Permission which is granted to a student to engage in any employment shall not exceed the date of expiration of the authorized stay and is automatically suspended while a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place where the student is employed. Permission to continue employment previously authorized may be requested in conjunction with an application for extension of stay, and such employment may be continued pending an adjudication of the application. Requests for continued employment authorization must show that the economic necessity brought about by the unforeseen circumstances warranting the initial authorization has not changed and by verification from his/her employer that the student's employment has not exceeded 20 hours per week while school is in session.

* * * * *

6. It is proposed to amend 8 CFR 214.2(f) by adding a new subparagraph (8) pertaining to reinstatement of student status. New 8 CFR 214.2(f)(8) is proposed to read as follows:

* * * * *

(f) * * *

(8) *Reinstatement of student status.* An alien who was admitted to the United States as, or whose status has been changed to, an F–1 nonimmigrant student, and who has overstayed the authorized period of stay granted by the Service or who has otherwise violated the conditions of such status may be reinstated by the district director to lawful nonimmigrant student only if the student:

(1) Is currently pursuing a full course of study at an approved school,

(2) Is pursuing the same general educational adjective for which he/she was originally granted student status,

(3) Has not been employed without authorization, and

(4) Is not deportable on any ground other than section 241(a) (2) or (9). Additionally, the student must establish to the satisfaction of the district director that his/her violation of status resulted from circumstances beyond his/her control or that failure to receive reinstatement to lawful status would result in considerable hardship to the student.

No appeal shall lie from the decision of the district director. However, nothing contained in this section shall be construed to limit the eligibility of an alien to receive deferred action treatment, or voluntary departure pursuant to 8 CFR 242.5.

* * * * *

7. It is proposed to revise the title and text of 8 CFR 214.5 as set forth below:

§ 214.5 Requirements for maintenance of status for nonimmigrant students.

(a) An alien in the United States as an F–1 nonimmigrant student to attend a postsecondary school, including a vocational, technical, or language school, who was not previously required to report during the period between November 14 and December 31, 1979 in accordance with regulations then in effect, must report in person to the office of the Service having jurisdiction over his/her school or to a Service representative on campus and provide information as to residence and maintenance of status. Nonimmigrant students must report during one of the first six full calendar months immediately following the effective date of this regulation as follows: students whose surname begins with the letter A, B, or C must report during the first full calendar month; students whose surname begins with D, E, F, or G must report prior to the end of the second full calendar month; students whose surname begins with H, I, J, K, or L must report prior to the end of the third full calendar month; students whose surname begins with M, N, O, or P must report prior to the end of the fourth full calendar month; students whose surname begins with Q, R, or S must report prior to the end of the fifth full calendar month; students whose surname begins with T, U, V, W, X, Y, or Z must report prior to the end of the sixth full calendar month. At the time of reporting, each student must present:

(1) Passport and Form I–94 for self and accompanying spouse and children if any;

(2) Evidence from the school of current enrollment or, if on semester or summer break, evidence of acceptance or continued enrollment for the next school term, plus evidence of payment of fees, waiver of fee payment, or, if on semester or summer break, proof of financical ability to pay school fees;

(3) A letter from school authorities attesting to the course hours in which presently enrolled or to be enrolled; the fact that the student is in good standing; the expected completion date of the student's studies; and

(4) Evidence of current address in the United States and such other information as may be requested in accordance with 8 CFR 214.1(f).

(b) At the time of reporting, nonimmigrant students previously granted "duration of status" will have their indefinite period of stay revoked and may be granted an extension of stay not to exceed one year. All other students may also be considered for an extension of stay at that time.

(c) Failure by a nonimmigrant student to comply with the reporting requirements of paragraph (b) of this section constitutes a failure to maintain status as required by section 241(a)(9) of the Act.

(Sec. 103 and 214; 8 U.S.C. 1103 and 1184)

Public Comment Invited

Interested members of the public are invited to submit written data, views and arguments concerning this proposed rule to the COMMISSIONER OF IMMIGRATION AND NATURALIZATION, at the address indicated at the beginning of this document, pursuant to 5 U.S.C. 553. Materials should be submitted in writing, in duplicate on or before May 19, 1980. Any relevant written material received on or before that date will be fully considered before final action is taken on the proposed rule.

Dated: March 13, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization

[FR Doc. 80–8401 Filed 3–18–80; 8:45 am]

BILLING CODE 4410–10–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Human Prescription Drugs in Oral Dosage Forms; Proposed Exemption of Sodium Fluoride Drug Preparations, Including Liquid and Tablet Forms, and Containing No More Than 264 Milligrams of Sodium Fluoride Per Package From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes for public comment an exemption from child-protection packaging requirements for sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 milligrams of sodium fluoride per package and containing no other substances subject to the requirements for special packaging under the Poison Prevention Packaging Act. An exemption for aqueous solutions of sodium fluoride containing no more than 264 milligrams of sodium fluoride per package is currently in effect. The Commission preliminarily believes that child-protection packaging for all generic forms of sodium fluoride containing no more than 264 milligrams of sodium fluoride per package is unnecessary to protect children from serious illness or injury, based upon the low toxicity of sodium fluoride and the lack of adverse human experience associated with ingestion of the drug. The Upjohn Company, manufacturer of a multiple vitamin product in chewable tablet form containing 221 milligrams of sodium fluoride per package, petitioned the Commission to exempt its sodium fluoride-containing product.

DATES: Comments on this proposed exemption must be received by May 19, 1980. Comments received after this date will be considered to the extent practicable.

If the Commission issues a final regulation concerning the exemption, the Commission proposes that the exemption become effective on the date that the final regulation is published in the **Federal Register.**

ADDRESS: Comments, preferably in five copies, should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments which have been received may be seen in or obtained from the Office of the Secretary, 1111 18th Street, NW., Third Floor, during working hours Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Fred Marozzi, Division of Safety Packaging and Scientific Coordination, Directorate for Engineering and Science, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6477.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1979, the Commission received a petition (PP 79–2) from the Upjohn Company, of Kalamazoo, Michigan, requesting an exemption from child-protection packaging requirements under the Poison Prevention Packaging Act of 1970 (PPPA) at 16 CFR 1700.14(a)(10) for tablet preparations containing no more than 221 milligrams (mg) of sodium fluoride per package. The petitioner's multiple vitamin product uses sodium fluoride as an anticaries agent (for the prevention of dental decay) and is a prescription drug that is regulated under the PPPA solely on the basis of its fluoride content. Another main use of sodium fluoride is as an insecticide/rodenticide.

Aqueous solutions of sodium fluoride containing no more tha 264 mg of sodium fluoride per package are currently exempted from the Commission's child-protection packaging requirements at 16 CFR 1700.14(a)(10)(vii). This exemption was based upon the Commission finding that 264 mg of sodium fluoride is less than an acutely toxic dose (42 FR 62363–4, December 12, 1977). In addition, the exemption was based upon the safety recommendation of the American Dental Association that no more than 264 mg of sodium fluoride be dispensed at one time.

Although the petitioner has requested an exemption only for its chewable tablet preparation of sodium fluoride containing a maximum of 221 mg of sodium fluoride per package, the Commission acknowledges the fact that the oral toxicity of sodium fluoride is not significantly affected by the dosage form. In other words, the toxicity of sodium fluoride is tablet preparations is considered by the Commission to be no greater than the toxicity of equivalent dosages of the currently exempted liquid preparations.

For the reasons stated below, the Commission has decided to propose an exemption for sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 mg of sodium fluoride per package and containing no other substance subject to the special packaging regulations. The Commission points out that there are currently sodium fluoride tablet preparations containing up to 264 mg of sodium fluoride per package. The Commission, therefore, proposes to revise the existing exemption for aqueous solutions of sodium fluoride by extending the exemption to all generic forms of sodium fluoride drug prescriptions but to maintain the maximum dosage level at 264 mg of sodium fluoride per package.

Grounds for Exemption

The Upjohn Company contends that the same fact—lack of toxicity—which justified an exemption for aqueous solutions containing no more than 264 mg of sodium fluoride per package supports the current request. The petitioner also cities as justification for an exemption the lack of adverse human experience data associated with ingestion of its sodium fluoride—containing product. From 1965 until January, 1979, only one report of an accidental ingestion of the product by a child 5 years of age or younger has been received by the petitioner. This report involved a 3 year old child who ingested 15 tablets, for a maximum of 33.15 mg of sodium fluoride, without symptomatology.

An examination of the most current data sources available to the Commission confirms that there is a lack of serious adverse reaction by young children who have accidentally ingested sodium fluoride.

Approximately 4000 individual case reports under the general heading of "vitamins" in the National Clearinghouse for Poison Control Centers (NCPCC) were studied for the year 1977 to obtain an indication of the magnitude of ingestions of sodium fluoride—containing multi-vitamin preparations. This study revealed 358 ingestions of such products by children under 5 years of age. Twenty of these 358 ingestions resulted in symptomatology such as lethargy, nausea, vomiting, abdominal pain, diarrhea, rash, central nervous system depression and shock. None of the cases was serious enough to result in hospitalization.

The NCPCC data from 1969 thorough 1976 indicates 1,496 ingestions by children under 5 years of age of anticaries products which contain no more than 264 mg of sodium fluoride per package. Fifty-two of the 1,496 cases exhibited symptoms. The symptoms ordinarily exhibited were nausea, vomiting, abdominal pain, diarrhea, headache, and a fever of more than 101°F. Nineteen of the 1,496 cases resulted in hospitalizations which were

generally of an unspecified duration. One death of a one year old child as a result of ingesting sodium fluoride was also reported in the NCPCC data from 1969 through 1976. This death was listed under the chemical name "sodium fluoride" and tabulated under the general heading of "chemicals," which indicates that the product involved may have been an insecticide/rodenticide or a pure chemical entity rather than an anticaries agent.

The Commission's Poison Control Center contract data for 1976 and 1977 reveals 254 ingestions by children under 5 years of age of various anticaries products which contain no more than 264 mg of sodium fluoride per package. Twenty-seven of these cases exhibited symptomatology such as nausea, vomiting, diarrhea and lethargy. In addition, there was one 2-day hospitalization.

The Commission's National Electronic Injury Surveillance System (NEISS) for 1977 and 1978 reports 18 ingestions by children under 5 years of age of anticaries products containing no more than 264 mg of sodium fluoride per package. All of the 18 children were treated and released from the reporting hospital emergency room.

The Commission's National Injury Information Clearinghouse currently has on file 3 in-depth investigations of ingestions by children under 5 years of age of anticaries tablets containing sodium fluoride. These incidents occurred in 1976, 1977 and 1978. All 3 children were treated in hospital emergency rooms and released. As of August 7, 1979, there were no death certificates or consumer complaints on file with the National Injury Information Clearinghouse that are associated with anticaries tablets containing sodium fluoride.

The Commission also conducted a toxicological evaluation of sodium fluoride. The Commission concurs with the petitioner that the toxicity of tablets containing sodium fluoride is similar to the toxicity of aqueous solutions containing sodium fluoride. The existing Commission exemption of aqueous solutions containing no more than 264 mg of sodium fluoride was based upon the Commission finding that 264 mg of sodium fluoride is less than an acutely toxic dose.* In addition, the exemption conformed with safety recommendation of the American Dental Association that no more than 264 mg of sodium fluoride be dispensed at one time.

A general review by the Commission staff of the scientific and medical literature reveals that most of the reported sodium fluoride poisonings have resulted from its usage as an insecticide/rodenticide rather than its usage as a human oral prescription anticaries drug. However, the literature search did reveal 3 reported fatalities of children under 5 years of age from the ingestion of dosage levels of fluoride preparation which are considerably greater than the maximum level of this proposed exemption. The symptoms most commonly presented in acute sodium fluoride ingestions include nausea, vomiting, diarrhea, abdominal pain, salivation, muscular weakness, tremors, convulsions, hypotension, nephritis, and, in fatal cases, respiratory paralysis and cardiac arrest.

Information available to the Commission indicates that the lethal dose of sodium fluoride is about 5 grams in adults and about 3 grams in children. The Commission notes that an important factor in limiting severe toxic reactions is that sodium fluoride, in even moderatly large doses, is a gastric and intestinal irritant which tends to induce vomiting and diarrhea. If such vomiting occurs at an early stage following the sodium fluoride ingestion, which it usually does, then the risk of injury is considerably reduced. The Commission is aware, however, that the ingestion of 1 gram of sodium fluoride by a child would be likely to result in severe symptomatology or even lethality if vomiting were not to occur or if medical treatment were significantly delayed.

The Commission notes that there is a relatively low incidence (about one percent) of adverse reactions associated with normal dosages of sodium fluoride. These adverse reactions, which include gastrointestinal hemorrhages, eczema, dermatitis and uticaria type reactions, are a result of hypersensitivity to fluoride. These reactions cease upon termination of sodium fluoride therapy. It appears that the problem most often associated with the normal sodium fluoride usage as an anticaries agent is a chronic one and involves mottling of the teeth (fluorosis).

The Commission solicited the opinion of its Technical Advisory Committee (TAC) on Poison Prevention Packaging. Of the 14 TAC members who commented on the petition, 9 members recommended granting the exemption, 4 members recommended denial, and one member abstained.

The 9 members who recommended granting the exemption cited the current exemption of aqueous solutions containing no more than 264 mg of sodium fluoride; these members also stated that the marketing history, toxicology, and human experience for sodium fluoride-containing drugs demonstrate that there is a limited risk of severe toxic reaction from accidential ingestion.

The 4 TAC members who recommended denial of the petition cited the following considerations: (1) Sodium fluoride should not be exempt from the special packaging regulations, the previous exemption notwithstanding; (2) there is a lack of adequate justification for the exemption, such as a lifesaving urgency requiring rapid access to the product; (3) flavored chewable sodium fluoride tablets provide more of an incentive for children to accidentally ingest the product than the currently exempted liquid forms; (4) an accidental ingestion could be a traumatic experience for the victim and his/her parents; (5) increasing numbers of exemptions are likely to confuse pharmacists and result in greater noncompliance with special packaging regulations.

The Commission notes that while such considerations as product form, flavoring, and need for rapid access may enter into the evaluation of certain PPPA exemption requests, the major consideration remains the toxic potential of the exempted package and the human experience data.

The Commission also reviewed the medical literature that was cited by some of the TAC members in support of their recommendations to deny the exemption request. The review revealed that such literature was not directly related to the issues involved in the petition; one article involved the symptomatology associated with accidential ingestion of hydrofluoric acid, which is far more toxic than sodium fluoride, and another article involved the symptomatology associated with ingestion of sodium fluoride by cancer and leukemia patients, who probably have lowered fluoride tolerance. The Commission notes that individual variability in tolerance to fluoride cannot be used to predict toxicity in a normal population. In the case of fluoride therapy, information available to the Commission indicates that the incidence of adverse reactions is low and that those reactions that do occur subside upon termination of therapy. The Commission also notes that there is no scientific rationale for predicting a greater incidence of adverse reactions in children, whether due to intolerance or other factors. In fact, human experience data and the medical literature indicate very few adverse reactions, particularly in children.

The one TAC member who abstained noted what appeared to be a discrepancy in the drug's toxicity and its dosage regimen. The dosage regimen is

* See 42 FR 62363–4, December 12, 1977.

based upon normal fluoride intake through drinking water. The Commission staff notes that the cautionary note accompanying the product limits use of the drug when certain amounts of fluoride are found in the daily drinking water. Fluoride supplementation is indicated only when the fluoride level of normal drinking water falls below certain limits. These cautions are designed to preclude the development of chronic fluoride overdosage (fluorosis).

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. The Agency states that it previously had recommended granting the current exemption for liquid fluoride-containing products based on scientific literature which indicated that 264 mg of sodium fluoride was less than an acutely toxic dose. While observing that the product form is different, FDA states that the composition of sodium fluoride-containing tablets is not significantly different from currently exempted products, and that there is a lack of reports of accidential ingestions of these products resulting in serious toxic effects. Based upon the lack of reported substantial hazard, FDA concluded that the exemption request should be granted.

Findings

Based on currently available information showing the low toxicity of sodium fluoride and the lack of adverse human experience reported from ingesting sodium fluoride, the Commission preliminarily finds that sodium fluoride drug preparations, including liquid and tablet forms, and containing no more than 264 milligrams of sodium fluoride per package, do not pose a risk of serious personal illness or serious injury to children. The Commission emphasizes that this exemption level is partly based on the American Dental Association safety recommendation that no more than 264 mg of sodium fluoride be dispensed at one time. The Commission urges that medical and dental practitioners and pharmacists observe this recommended limitation in the interest of protecting young children from potentially toxic ingestions as a result of exposure to excessive amounts of sodium fluoride-containing preparations. The Commission also emphasizes that this proposed exemption is limited to sodium fluoride-containing products which contain no other substances subject to the requirements for special packaging under 16 CFR 1700.14(a)(10). The applicability of the requirements of special packaging at 16 CFR 1700.14(a)(10) is not affected by this proposal. Products within the scope of this proposal (except for aqueous solutions of sodium fluoride containing no more than 264 mg of sodium fluoride per package, which are currently exempt under 16 CFR 1700.14(a)(10)(vii)) must continue to be in special packaging until the effective date of any final regulation.

Environmental Considerations

The Commission's interim rules for carrying out its responsibilities under the National Environmental Policy Act (see 16 CFR Part 1021; 42 FR 25494) provide that exemptions to an existing standard that do not alter the principal purpose or effect of the standard normally have no potential for affecting the environment and that, therefore, environmental review of exemptions is generally not required (§ 1021.5(b)(1)). The rules also state that environmental review or rules requiring poison prevention packaging is generally not required (§ 1021.5(b)(3)).

With respect to this exemption of sodium fluoride drug preparations containing no more than 264 mg of sodium fluoride from poison prevention packaging, the Commission finds that the rule will have no significant effect on the human environment and that no environmental review is necessary.

Conclusion and Promulgation

Having considered the petition, the poison control statistics from the National Clearinghouse for Poison Control Centers and from six poison control centers under contract with the Commission, medical and scientific literature and other Commission data sources, and having consulted, pursuant to section 3 of the Poison Prevention Packaging Act (PPPA) of 1970, with the Technical Advisory Committee on Poison Prevention Packaging established in accordance with section 6 of the Act, the Commission concludes that an exemption from the special packaging requirements for sodium fluoride drug preparations containing no more than 264 milligrams of sodium fluoride per package should be proposed as set forth below. Accordingly, pursuant to the provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, sections 2(4), 3, 5; 84 Stat. 1670–72; 15 U.S.C. 1471 (4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–572, sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes that 16 CFR 1700.14 be amended by revising paragraph, (1)(10)(vii), as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription Drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

(vii) Sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 milligrams of sodium fluoride per package and containing no other substances subject to this § 1700.14(a)(10).

Dated: March 13, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-8330 Filed 3-18-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 885

[Docket No. R-80-780]

Section 202 Loans for Housing for the Elderly or Handicapped; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Room 5218, 451 7th Street S.W., Washington, D.C. 20410, (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 885—Section 202 Loans for Housing for the Elderly or Handicapped—Cost Limits

The proposed rule would amend 24 CFR Part 885 by stating increased per unit cost limits for housing for elderly and non-elderly handicapped persons in the Section 202 program. Also, the rule would establish per unit cost limits for non-elderly handicapped persons with large families.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)); sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., March 13, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-8285 Filed 3-18-80; 8:45 am]

BILLING CODE 4210-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Proposed Amendment of Procedural Rule

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Proposed amendment of Commission Rule 30, 29 CFR 2700.30.

SUMMARY: The Federal Mine Safety and Health Review Commission proposes to amend 30 CFR 2700.30, a rule dealing with the requirements for Commission approval of a settlement of a penalty case, by revoking paragraph (c).

DATES: Comments must be received no later than May 5, 1980.

ADDRESSES: Comments must be addressed to the Office of the Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Washington, D.C. 20006. The envelope should be marked "Rules Comments".

FOR FURTHER INFORMATION CONTACT: Dennis D. Clark, General Counsel, or Arthur G. Sapper, Special Counsel, at (202) 653-5610.

SUPPLEMENTARY INFORMATION: Section 110(k) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(k), provides that "[n]o proposed penalty which has been contested before the Commission . . . shall be compromised, mitigated, or settled except with the approval of the Commission." Commission Rule 30, 29 CFR 2700.30, as proposed to be amended, reads as follows:

PART 2700—PROCEDURAL RULES

§ 2700.30 Penalty settlements.

(a) *General.* No proposed penalty that has been contested before the Commission shall be compromised, mitigated, or settled except with the approval of the Commission after agreement by all parties to the proceeding.

(b) *Contents of settlement.* A proposal that the Commission approve a penalty settlement shall include the following information for each violation involved: (1) the amount of the penalty proposed by the Office of Assessments of the Mine Safety and Health Administration; (2) the amount of the penalty proposed by the parties to be approved; and (3) facts in support of the appropriateness of the penalty proposed by the parties.

Accordingly, the Commission proposes that paragraph (c) of 29 CFR § 2700.30 be revoked.

Although an opportunity for public comment is not required, the Commission invites public comment to comply with the spirit of Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (1978), and to assist the Commission in its deliberations.

Frank F. Jestrab,

Acting Chairman.

[FR Doc. 80-8280 Filed 3-18-80; 8:45 am]

BILLING CODE 6820-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1439-7]

Air Quality Control Regions, Criteria and Control Techniques; Attainment Status Designations: Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to change the attainment status designations of Clermont and Defiance Counties in Ohio. For Clermont County, EPA is proposing to revise the boundaries of the secondary nonattainment area for total suspended partculates (TSP) to reduce the size of the nonattainment area. For Defiance County, EPA is proposing to change the primary nonattainment designation of a portion of Richland Township to secondary nonattainment of the National Ambient Air Quality Standards (NAAQS) for TSP.

DATE: Comments must be submitted by no later than April 18, 1980.

ADDRESS: Send comments to: Gary Gulezian, Chief, Regulatory Analysis Section Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Deaborn Street, Chicago, Illinois 60604.

Copies of the requests for the designations, support documents, and the supporting ambient air quality data are available at the address cited above and at:

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

Ohio Environmental Protection Agency, P.O. Box 1049, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Environmental Protection Specialist, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, 312-886-6053.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (the Act) which directed each State to submit to the Administrator of the EPA a list of the NAAQS attainment status of all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and made necessary amendments in the **Federal Register** on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation.

Clermont County

On March 3, 1978, EPA designated Pierce Township in Clermont County as a secondary NAAQS nonattainment area for TSP (43 FR 8962). EPA based the designation on monitored violations of the TSP secondary standard during 1977 at Ohio EPA's BMOP monitor. On October 5, 1978, EPA amended the Clermont County designation to expand the size of the secondary nonattainment area to include Batavia Township, since the monitored violations were recorded on the boundary between Batavia and Pierce Townships (43 FR 45993). On December 5, 1979, in conjunction with litigation on the Clermont County designation, the agency agreed to review the designation.

EPA can redesignate an area from nonattainment to attainment if the most recent eight quarters of data demonstrate that there have been no violations of either the secondary or

primary standard. EPA reviewed data from two monitors operated by Ohio EPA and three monitors operated by Cincinnati Gas and Electric Company in Clermont County. The only pollution levels above the secondary standard for TSP were registered at Ohio EPA's BMOP monitor during 1978. The four other monitors demonstrated attainment of both the primary and secondary standards.

In addition, EPA asked Ohio EPA to review the data and make a recommendation. Based on the monitoring data and an analysis of the area impacting the BMOP monitor, Ohio EPA recommended reducting the size of the secondary nonattainment area to a small area around the BMOP monitor. Ohio EPA recommended redesignating the remaining portions of the original nonattainment area to attainment of both the primary and secondary standards.

EPA has reviewed the State's recommendation and finds that the monitoring data supports the reduction in size of the nonattainment area. The State also recommended, however, redesignating this smaller area as unclassifiable rather than secondary nonattainment for TSP because of the "downward trend" in TSP concentrations recorded at the BMOP monitor over the past three years. EPA can redesignate an area to unclassifiable only upon a showing that the original data on which a designation was based are invalid. The secondary standard violations recorded at the BMOP monitor in 1978 have not been shown to be invalid. Consequently, EPA proposes to modify the State's recommendation and retain the secondary nonattainment designation for the smaller area around the BMOP monitor showing violations.

Therefore, based on ambient air data, EPA proposes to approve the reduction in size of the secondary TSP nonattainment area in Pierce and Batavia Townships to conform to the boundaries recommended by Ohio EPA. All other portions of these townships would be designated as attainment for both the primary and secondary NAAQS for TSP. The proposed boundaries for the revised secondary nonattainment area are:

Southern boundary being Concord Road (Twp Rd #T–67).

The western boundary being the Jenny Lind Road (Twp Rd #T–202); north to Locust Lake Road (Twp Rd #T–179); west to Lewis Road (Twp Rd #T–178).

The northern boundary being State Route 125 east to Amelia, Olive Branch Road. Then east again on Lucy Run Road (Twp Rd #T–182); east again on Chapel Road (Twp Rd #T–68).

The eastern boundary is the Mt. Holly Lane Road.

Defiance County

On March 3, 1978, EPA designated Defiance County as nonattainment of the primary NAAQS for TSP (43 FR 8962). EPA amended the designation on October 5, 1978, retaining the primary nonattainment designation for those areas of Richland Township not within the City of Defiance, revising the designation for the City of Defiance to secondary nonattainment, and making the remainder of Defiance County attainment. Because the primary nonattainment designation included the area surrounding General Motors Corporation's (GM) Central Foundry located in Richland Township, GM petitioned on November 20, 1978, to revise the designation for Richland Township, excluding the City of Definace, to attainment. GM submitted additional TSP monitoring data to support their request. In July 18, 1979, the EPA informed GM that the data did not support an attainment designation but would support a secondary standard designation. GM, on November 28, 1979, submitted additional TSP monitoring data for the period July 1977 to September 1979 and requested a redesignation to secondary nonattainment. However, GM strongly urged that the EPA consider revising the designation to attainment. EPA reviewed GM's November 28, 1979 request and asked Ohio EPA to review the designation. On February 1, 1980, the Ohio EPA recommended that the designation be revised to secondary standard nonattainment because there were violations of the secondary standard for TSP within the most recent eight calendar quarters of monitoring data. No violations of the primary standard were measured during the last eight quarters of data.

Therefore, based upon ambient air monitoring data, the EPA is proposing to approve Ohio's recommendation to redesignate Richland Township excluding the City of Defiance, in Defiance County from primary nonattainment to secondary nonattainment for TSP.

(Sec. 107(d), 171(2), 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated: March 12, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80–8383 Filed 3–18–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 716

[OTS–084003; FRL 1434–6]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies; Extension of Comment Period

Correction

In FR Doc. 80–7953, published in the issue of Thursday, March 13, 1980, on page 16209, in the first column, under Summary make the following corrections:

1. In the sixth line the comment period will extend to April 14, 1980;

2. In the nineteenth line "records" should be corrected to read "record".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. BC 80–94; RM–3306]

Proposed FM Assignment to Poughkeepsie, N.Y.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a third commercial FM channel to Poughkeepsie, New York, in response to a petition filed by Olympian Broadcasting Corporation. The proposed assignment will result in intermixture. However, petitioner stated it is willing to operate a Class A station in competition with the two currently licensed Class B FM stations, and no other Class B channels are available for assignment to Poughkeepsie.

DATES: Comments must be filed on or before May 6, 1980, and reply comments must be filed on or before May 27, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 5, 1980.

Released: March 13, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:* (a) A petition for rulemaking [1] was filed on January 2, 1979, by Olympian Broadcasting Corporation ("petitioner"), licensee of AM Station WKIP, Poughkeepsie, New York, proposing the

[1] Public Notice of the petition was given on January 22, 1979, Rept. No. 1160.

assignment of Channel 221A as its third commercial FM assignment.

(b) The channel can be assigned without affecting any existing FM assignments in the Table. No responses to the proposal have been received.

2. *Community Data:* (a) *Location:* Poughkeepsie, seat of Dutchess County, is located approximately 105 kilometers (65 miles) north of New York City.

(b) *Population:* Poughkeepsie—32,029;[2] Dutchess County—222,295.

(c) *Local Aural Broadcast Service:* Poughkeepsie is served by fulltime AM Stations WEOK and WKIP, FM Stations WPDH (Channel 268), WSPK (Channel 284) and noncommercial educational FM Station WVKR-FM (Channel 217).

3. *Economic Considerations:* Petitioner states that the population of Dutchess County increased 26.3% during the period 1960–1970. It adds that, according to the *Commercial Atlas and Marketing Guide,* Rand McNally & Co., the county's population, as of 1978, increased another 7%. Petitioner asserts that Poughkeepsie is a principal business center, and with Kingston, in neighboring Ulster County, comprises the Poughkeepsie/Kingston Basic Trading area, the hub of commerce in Dutchess and Ulster Counties.

4. *Preclusion:* A preclusion study indicates that no new preclusion would be created by the proposed assignment except for a small area on the co-channel where no other communities are located.

5. The assignment of Channel 221A to Poughkeepsie would result in intermixing a Class A channel with two Class B channels (268, 284). The Commission has a policy of permitting such intermixture where, as here, no other Class B channel is available for assignment and the petitioner is willing to apply for the Class A channel in spite of the unfavorable competitive situation. *Yakima, Washington,* 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida,* 45 F.C.C. 2d 142, 145 (1974).

6. Since the Poughkeepsie is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 221A to Poughkeepsie, New York, requires coordination with the Canadian Government.

7. In light of the foregoing information and the fact that the proposed assignment would provide a growing community with a third local commercial 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 Poughkeepsie, New York, as follows:

City	Channel No.	
	Present	Proposed
Poughkeepsie, N.Y.	268, 284	221A, 268, 284

8. The Commission's authority to institute rule making proceedings, showing 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 May 6, 1980, and reply comments on or before May 27, 1980.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, 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 proponents 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 led 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 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. 80-8315 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

[2] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 73

[Docket No. 80-93; RM-3196 and 3254]

Proposed FM assignment to Clintonville, Chilton & Manitowoc, Wis.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking and Order to Show Cause.

SUMMARY: This action proposes, in the alternative, the assignment of Channel 221A to either Chilton or Clintonville, Wisconsin, in response to petitions from R & D Broadcasting, and Add, Inc., respectively. The assignment could bring a first local aural service at either

community. The Chilton proposal would require a substitution of channels at Manitowoc, Wisconsin.

DATES: Comments must be filed on or before May 6, 1980, and reply comments must be filed on or before May 27, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792 or Ira H. Smart, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

Adopted: March 5, 1980.
Released: March 17, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it two petitions for rulemaking. The first was filed by R & D Broadcasting ("R&D"), requesting the assignment of FM Channel 221A to Chilton, Wisconsin, as a first FM assignment, and the substitution of Channel 257A for Channel 221A at Manitowoc, Wisconsin.[1] The second petition was received from Add, Inc. ("Add"), seeking the assignment of Channel 221A as a first FM assignment [2] to Clintonville, Wisconsin. These requests conflict since the required spacing is 104 kilometers (65 miles) while the communities are approximately 82 kilometers (51 miles) apart. Add filed comments in opposition to the R&D proposal.

2. *Community Data:* (a) *Location:* Clintonville, seat of Waupaca County, is located 200 kilometers (122 miles) northwest of Milwaukee. Chilton, seat of Calumet County, is located 122 kilometers (80 miles) northwest of Milwaukee.

(b) *Population:* Clintonville—4,600;[3] Waupaca County—37,780; Chilton—3,030; Calumet County—27,604.

(c) *Present Aural Broadcast Service:* Clintonville—none. Chilton—none.

3. *Preclusion Considerations:* No preclusion studies are required as the petitions involve first Class A assignments.

4. *Additional Considerations:* The assignment of Channel 221A to Chilton would require Station WKKB (Channel 221A), Manitowoc, to switch to Channel 257A. R&D has offered to compensate the current licensee for the expense of this change. A staff study indicated that there is no other Class A channel available for assignment to Chilton.

5. In support, R&D notes that there is no means of local or area self expression licensed to either Chilton, or any other community in Calumet County, Wisconsin. R&D argues that an FM station would contribute to the growth and development of Chilton and Calumet County, by assisting area residents in keeping cognizant of local needs and problems. Finally, R&D submitted economic data on Chilton and Calumet County to demonstrate that it is capable of supporting a local FM station.

6. In its petition, Add asserts that Clintonville is a regional transportation center with a local airport. Its local government consists of a mayor and ten aldermen. Add provides additional demographic data which adequately supports the need for a first local station.

7. In opposition to the R&D request Add argues that the R&D petition should be dismissed because of an inadequate preclusion study. Moreover, Add contends that the assignment of Channel 221A to Clintonville should be proposed because although Clintonville and Chilton are both without local aural service, Chilton receives more radio signals from other communities than does Clintonville.

8. The showings thus far provide no clear choice as to the assignment of Channel 221A to either Chilton or Clintonville. There are no other Class A channels available for assignment to either community. The factors that we consider significant, as they pertain here, favor Clintonville since it is the larger community, no other changes are required, and Clintonville appears farther removed from urban areas and outside radio signals. Each proponent should provide additional information on the relevant factors. In addition, if the proponents desire us to consider the existence of first or second services, then information should be provided on this matter following the guidelines set forth in the *Roanoke Rapids/Anamosa* proceedings, 9 F.C.C. 2d 672 (1967) and 46 F.C.C. 2d 520 (1974). Information may also be provided on the availability of an AM station at either community.

9. In view of the foregoing factors, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it pertains to Clintonville, Chilton and Manitowoc, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Clintonville, Wis		221A
or		
Chilton, Wis		221A
Mnitowoc, Wis	221A	257A

10. 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.

11. Interested parties may file comments on or before May 6, 1980, and reply comments on or before May 27, 1980.

12. Cub Radio, Inc. licensee of Station WKKB(FM), Manitowoc, Wisconsin, shall show cause why its license should not be modified to specify operation on Channel 257A instead of Channel 221A, if the Commission in this proceeding finds it in the public interest to assign Channel 221A to Chilton, Wisconsin; this Order being made with the understanding that the ultimate licensee at Chilton, Wisconsin, will pay reasonable reimbursement of expenses incurred in the change of channels at Manitowoc, Wisconsin.

13. Pursuant to Section 1.87 of the Commission's Rules, the licensee of Station WKKB(FM), Manitowoc, Wisconsin, may, not later than May 6, 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, Cub Radio, Inc., may not later than May 6, 1980, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Cub Radio, Inc., to furnish additional information, designate the matter for hearing, or issue without further proceedings, an *Order* modifying the license as provided in the *Order to Show Cause*. If the right to a hearing is waived, and no written statement is filed by the date referred to above, Cub Radio, Inc. 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 change is found to be in the public interest.

14. It is directed, That the Secretary of the Commission shall send a copy of this *Notice of Proposed Rule Making and Order to Show Cause* by Certified mail, return receipt requested, to Cub Radio, Inc., Box 98, Manitowoc, Wisconsin 54220, 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 or Ira H. Smart, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a notice of proposed rule making is issued until

[1] Public Notice of the petition was given on December 6, 1978, Rept. No. 1154.

[2] Public Notice of the petition was given on September 5, 1978, Rept. No. 1138.

[3] Population figures from the 1970 U.S. Census.

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 to 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 inital comments. The proponent of a proposed assignment is also expected to file comments even if it only resumbits 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 accoradance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an orginal and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnihsed the Commission.

6. *Public inspection of filings.* All filings make 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. 80-8317 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[B/C Docket No. 80-95; RM 3117, 3165, and 3204]

FM Assignments to (Proposed) Bountiful, Centerville and West Jordan, Utah; and Rock Springs, Wyo.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes, in the alternative, to assign one or two Class C FM channels to Bountiful, Utah, in response to two petitions submitted by Garry Munson and John Charles Larsh, and by General Broadcasting, Inc. A conflicting request to assign a Class C channel to West Jordan, Utah, is also proposed. A change would be necessary at Rock Springs, Wyoming, to accommodate one of the Bountiful proposals. The proposed channel would offer a first local aural service to Bountiful. Comments are requested on issues that have been raised concerning the available and proposed transmitter site locations.

DATES: Comments must be filed on or before May 6, 1980, and reply comments must be filed on or before May 27, 1980.

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

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 5, 1980.

Released: March 17, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it two separate petitions for the assignment of FM channels (Channels 258 and 274) to Bountiful, Utah, and a counterproposal for the assignment of Channel 274 to West Jordan, Utah. It should be noted at the outset that no Class A channels are available for assignment to either Bountiful or West Jordan, making Class C assignments the only feasible choice.

2. *RM-3117 and RM-3165, Bountiful, Utah.* On March 23, 1978, D. Garry Munson and John Charles Larsh ("Munson/Larsh") filed a petition [1] requesting the assignment of Channel 258 to Bountiful, Utah and the substitution of Channel 283 for the unused Channel 258 assignment in Rock Springs, Wyoming.[2] Comments and an additional proposal, the assignment of Channel 274 to Bountiful, were filed on June 30, 1978, by General Broadcasting, Inc. ("GBI").[3] Munson/Larsh replied to this filing.

3. Bountiful is located 10 kilometers (6 miles) north of Salt Lake City, Utah. Information submitted by Munson/Larsh indicates that its population of 29,900 makes it the largest city in Davis County (pop. 99,029), and the fourth largest city in the State. Moreover, Munson/Larsh informs us that the city and county have experienced enormous growth over the last ten years, with current population figures estimated at over 39,000 and over 120,000, respectively.[4] We are also told that the city has eleven elementary schools, three junior highs and two high schools; that its civilian labor force is employed primarily in white collar occupations and includes a sizeable percentage of government workers; and that industrial growth and improved public recreational facilities are among the community's development priorities. Currently there are no radio or television stations licensed to Bountiful.[5]

4. In seeking Channel 274, GBI maintains that Channel 258 is not suitable for Bountiful. In this regard GBI argues that short-spacing problems with Station KBYO-FM (Channel 205) Provo, Utah,[6] have required Munson/Larsh to specify a transmitter site 37.8 kilometers (23.6 miles) northwest of the Bountiful reference point, a site so far from the city as to make use of the channel there inappropriate.

[1] Public Notice of the petition was given on June 7, 1978, Report No. 1125.

[2] The Rock Springs substitution is necessary to enable the Bountiful proposal to comply with the required mileage spacing.

[3] Public Notice of the filing was given on August 2, 1978, Report No. 1135.

[4] If these figures are to be used as a basis for ultimate action, they should be supported by specific documentation.

[5] FM Channel 288A is assigned to Bountiful but a construction permit has been granted for its use in Centerville, Utah. Also, GBI has applied for a construction permit for a new AM station at Bountiful.

[6] The spacing required for Intermodulation Frequency (IF) is 30 miles while the distance between Station KBYO-FM at Provo and the Bountiful reference point is 24 miles.

5. Munson/Larsh for its part finds much to fault in the GBI proposal. Pointing out that GBI has not specified a transmitter site, Munson/Larsh contends that it, too, may have to locate close to a city other than Bountiful.[7] Furthermore, Munson/Larsh continues, the lack of a transmitter site makes impossible definite calculations concerning preclusion and first and second FM services. Moreover, Munson/Larsh contends that GBI's engineering statement now shows the preclusionary effects of a Channel 274 assignment to be greater than those of a Channel 258 assignment. With respect to GBI's application for a new AM station at Bountiful (see footnote 5, *supra*), Munson/Larsh requests a statement concerning GBI's intended hours of operation and problem duplication for the two Bountiful stations, should it acquire both an AM and an FM facility. Finally, Munson/Larsh urges a need for a list of GBI's principals, citing the Commission's denial of a request to assign Channel 274 to Granger-Hunter, Utah, in part, because of multiple ownership concerns. *Granger-Hunter, Utah*, 42 FR 20317, 40 RR 2d 535 (1977).

6. There is no question that the securing of an appropriate transmitter site is a problem with both the proposed Channel 258 assignment and the proposed Channel 274 assignment. Paragraphs 11 and 12 of this *Notice* discuss these difficulties in detail. As for Munson/Larsh's other concerns, consideration now of GBI's plans for its proposed FM station is premature, there being no channel for which to apply at this time. Moreover, we have no reason to question GBI's ability to submit an application when appropriate, in the absence of evidence indicating legal or other impediments. In summary, then, we do find need for further comment on the technical aspects of both Bountiful proposals, *i.e.*, the availability of suitable transmitter sites, but otherwise find no basis to investigate into GBI's qualifications.

7. *RM–3204–West Jordan, Utah.* Robert R. Busch d.b.a. Busch Corporation ("Busch"), filed on September 1, 1978, a request to assign Channel 274 to West Jordan, Utah, as its first FM assignment and first local service.[8] Located 16 kilometers (10 miles) south of Salt Lake City, West Jordan's 1970 population was 4,221, a figure which would ordinarily incline us to favor Bountiful for that channel. Busch maintains, however, that West Jordan has grown since 1970 to a city of 28,500, with similar growth projected for the future. This figure, if accurate, would greatly enhance West Jordan's comparative status in this proceeding, placing it on a comparable footing with Bountiful.

8. *Preclusion Considerations.* Assignment of Channel 258 to Bountiful would cause preclusion on one or more channels to forty-two communities of over 1,000 persons, thirty of which have no FM assignments. Assignment of Channel 274 to Bountiful would cause preclusion on one or more channels to forty communities of over 1,000 persons, twenty-seven of which have no FM channel assignments. The assignment of Channel 274 to West Jordan would have a preclusionary effect very similar to that of Channel 274 in Bountiful. Tabulated below are the communities, their populations and the proposals causing preclusion.

Community	Population	Channel No.	
		258 to Bountiful	274 to Bountiful (or West Jordan)
Utah			
Smithfield	3,342	×	
Morgan	1,586	×	×
Garland	1,187	×	
Tremonton	2,794	×	×
Wellsville	1,267	×	×
Lewiston	1,244	×	
Richmond	1,000	×	
Willard	1,045	×	
Heber	3,245	×	×
Springville	8,790	×	×
Payson	4,501	×	×
Santaquin	1,236	×	×
Nephi	2,699	×	×
Mt. Pleasant	1,516	×	×
Duchesne	1,094	×	×
Helper	1,964	×	×
Ephraim	2,127	×	×
Gunnison	1,073	×	×
Fillmore	1,411	×	×
Delta [1]	1,610	×	×
Salina	1,494	×	
Roosevelt [1]	2,005	×	×
Roy	17,100		×
Clearfield	13,316		×
Farmington	2,526		×
Park City	1,193		×
Hyrum	2,340		×
Idaho			
Kimberly	1,557	×	
Buhl	2,975	×	
Filer	1,173	×	
Wendell	1,122	×	
Montpelier	2,604		×
American Falls	2,769		×
Wyoming			
Lyman	2,002	×	×
Afton	1,290		×
Kemnerer [1]	2,292		×
Green River [1]	4,196	×	×
Nevada			
Wells	1,081	×	
McGill	2,164	×	

[1] Has an AM station.

9. Munson/Larsh states that Channel 300 could be assigned to any of the areas precluded by the assignment of Channel 258 to Bountiful. Staff study verifies this proposition along with the fact that Channel 300 could be assigned to areas precluded by the proposed Channel 274 assignments. Staff study also supports Busch's contention that the following Class A assignments could be made in precluded areas:

Nephi, Utah	272A
Ephraim, Utah	280A
Roosevelt, Utah	296A
Tremonton, Utah	292A
Kemnerer, Wyo	296A
Green River, Wyo	292A
Montpelier, Idaho	288A

10. *Other Considerations.* Munson/Larsh claims that its proposed facility would provide a first FM service to 300 persons in 1,050 kilometers (400 square miles). No second FM service would be provided. GBI states that its proposed operation would provide no first or second FM service. It may be assumed that the Busch proposal would similarly serve no unserved or underserved areas.

11. *Suburban Issue.* To avoid short-spacing with Station KBYO–FM (Channel 205) in Provo, Munson/Larsh proposes to place its transmitter 37.8 kilometers (23.6 miles) northwest of Bountiful, a site closer to the Ogden, Utah (population 69,478) metropolitan area than to Bountiful. Busch, likewise, faces a short-spacing problem with the Channel 221A assignment in Tooele, Utah, a problem which it plans to avoid with a transmitter site located 24 kilometers (15 miles) north of West Jordan and 5.8 kilometers (3.6 miles) north of the Salt Lake City (population 175,885) reference. These two sitings, each closer to a major community than to the proposed community of assignment, raise questions as to the intended use of the proposed stations, *i.e.*, whether they will in fact, serve the larger communities rather than the smaller ones.[9] As GBI does not specify a transmitter site, its service intentions cannot be assessed at this time.[10] Due to the questions raised by these suburban issues we have set forth alternative proposals.

12. We find merit in, and thus a need to investigate further, Busch's allegation that GBI can feasibly locate its transmitter only in the mountains east or northeast of Bountiful or on the valley

[7] GBI's choice of a transmitter site may be limited by the factors discussed in paragraphs 11, 12, *infra*.

[8] Public Notice of the filing was given on September 18, 1978, Report No. 1141.

[9] A request to assign Channel 274 to Granger-Hunter, Utah, was denied, in part, because of serious questions as to whether it would really serve Salt Lake City. *Granger-Hunter, Utah, supra*.

[10] Considerations set forth in paragraph 12, *infra*, may compel GBI to specify a site during the comment phase of this proceeding. If so, its intentions will be given an appropriate assessment at that time.

floor west or northwest of the city.[11] According to Busch, any available mountain site would require extensive development expenses for access and power and possible environmental impact studies as well. A valley floor location, Busch adds, would fail to provide maximum utilization of a Class C assignment and could result in severe multipath problems. If true, these contentions would cast serious doubt on the technical viability of a Channel 274 assignment to Bountiful.

13. In view of the foregoing, we find it in the public interest to explore the possible assignment of Channel 258 to Bountiful, Utah, and/or the possible assignment of Channel 274 to Bountiful or to West Jordan, in a rule making proceeding. We also desire to reassign Channel 288A from Bountiful to Centerville, Utah, to reflect its use there.

14. Accordingly, we propose the following alternative revisions in our FM Table of Assignments (§ 73.202(b) of the Rules) with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
Alternative I		
Bountiful, Utah	288A	258, 274
Centerville, Utah	.....	288A
Rock Springs, Wyo	243, 258	243, 283
Alternative II		
Bountiful, Utah	288A	258
Centerville, Utah	.....	288A
Rock Springs, Wyo	243, 258	243, 283
Alternative III		
Bountiful, Utah	288A	258
Centerville, Utah	.....	288A
West Jordan, Utah	.....	274
Rock Springs, Wyo	243, 258	243, 283
Alternative IV		
Bountiful, Utah	288A	274
Centerville, Utah	.....	288A
Alternative V		
Bountiful, Utah	288A	.....
Centerville, Utah	.....	288A
West Jordan, Utah	.....	274

15. 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.

16. Interested parties may file comments on or before May 6, 1980, and reply comments on or before May 27, 1980.

17. For further information concerning this proceeding, contact Myra Kovey, 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 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.

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) Counter proposals 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. 80-8282 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

[11] The engineering statement submitted with GBI's proposal uses the Bountiful reference point as a basis for calculation.

47 CFR Part 73

[BC Docket No. 80-90; RM-2587; RM-3226; RM-3367; FCC 80-108]

Modification of FM Broadcast Station Rules To Increase the Availability of Commercial FM Broadcast Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FCC proposes to change the FM allocation rules to allow additional FM channel assignments to be made. Greater public interest in FM broadcasting prompts the Commission to consider modifications which would increase the number of possible assignments that are available for FM broadcast station use.

DATES: Comments must be received on or before June 13, 1980, and reply comments on or before August 13, 1980.

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

FOR FURTHER INFORMATION CONTACT: Kathryn Hosford, Broadcast Bureau, (202) 632-7792; Gregory DePriest, Broadcast Bureau, (202) 254-6884; Mark Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

Adopted: February 28, 1980.

Released: March 14, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Lee absent; Commissioner Brown, concurring and issuing a statement.

1. The Commission has before it three petitions for rule making seeking changes in the FM allocation rules to permit additional channel assignments. These petitions were filed by George W. Phillips of Laurinburg Broadcasting Company ("Laurinburg" RM–2587), Serge Bergen ("Bergen" RM–3226) [1], and the National Telecommunications and Information Administration ("NTIA" RM–3367).[2] This *Notice* addresses the requests contained in those petitions, proposes specific changes in the FM assignment rules, and seeks comments on them. In an associate item to be before the Commission in the near future, we will discuss the implications of these changes on our present assignment policies and set forth various proposals for modifying our current policies. Before discussing the particular requests contained in the petitions, we shall set forth a brief description of the present FM allocation rules and the rationale underlying their adoption.

I. Background

2. In 1963, the Commission established an FM Table of Assignments in the *Third Report, Memorandum Opinion and Order* (40 F.C.C. 747) in Docket 14185. The purpose of such a table was twofold—first, to distribute assignments on an equitable basis by insuring to the extent possible the future availability of assignments for those communities which might not have a present demand; and second, to afford FM stations the opportunity to expand their facilities as their financial situation developed by providing interference protection to a maximum power and antenna height. Up until that time, new applications were being processed on a demand basis. The application was granted if no interference was caused with the 1 mV/m contour of an existing station or if, on balance, the benefits of the new service outweighed the resultant interference. A result of the demand system was a saturation of available frequencies in the major cities at the expense of nearby smaller localities. Prompted by this dislocation and uneven distribution, the Commission developed an overall plan which optimized both the individual channel use and the FM service in general. A Table of Assignments was established to allocate the available frequencies in an equitable manner.[3]

3. With the dual purpose in mind of maximizing the number of assignments while providing adequate protection from interference, the Commission compared the service radius of each class of station to its interfering contour. It was concluded that the optimum balance between individual station coverage and the maximum number of station assignments would be produced by adopting service contours of 15 miles in radius for a Class A station, 40 miles for a Class B, and 65 miles for a Class C. The signal strength contours requiring protection to produce these service radii were as follows: 927 uV/m for a Class A station; 560 uV/m for a Class B station; and 944 uV/m for a Class C station. The distance separations set forth in § 73.207 of the Rules were the culmination of these efforts.[4]

4. In order to understand the proposed changes set forth in this proceeding, a short outline of the present FM allocation structure is offered. The FM broadcast band is divided into 100 channels (each 200 kHz wide) which are located between 88 and 108 MHz. The first 20 channels are designated for use by noncommercial educational stations and are not a part of the Table. Interspersed throughout the remaining 80 channels are 20 designated for use by Class A stations only. See § 73.206(a) (1) and (3) of the Commission's Rules. Stations operating on Class A channels are designed to provide local service to smaller communities. See § 73.206(a)(2). The remaining 60 channels are reseved for use by Class B or Class C stations, depending on the geographical location of the station. See § 73.206(b) (1), (3) and (5). Class B stations were designed to provide coverage to the larger communities within the densely populated northeastern part of the United States (Zone I) and most of the State of California (Zone I–A). See § 73.206(b)(2). Class C stations were also designed to provide service to the larger communities but at the same time could be used to serve the more sparsely settled areas of the rest of the country (Zone II). See § 73.206(b)(4). Since Class A channels are assigned regardless of the zone, each zone is now permitted two classes of channels. The maximum permissible power and antenna height for each class of station is as follows:

	Max ERP in kilowatts (dBk)	Max HAAT in meters (feet)
Class:		
A	3 (4.8)	92 (300)
B	50 (17)	153 (500)
C	100 (20)	610 (2000)

5. Since its adoption, the Table of Assignments has proven to be an effective means of allocating available FM frequencies. Over time, however, fewer FM frequencies remain available as more and more assignments are made. In many parts of the country, the demand for service has not been fully satisfied yet no frequencies are available for assignment. The very success of the FM broadcast service has led to a scarcity of frequencies in many places.[5] The Commission now wishes to initiate a rulemaking proceeding to

[1] We have received comments in response to the Laurinburg and Bergen petitions from Thomas C. Smith of Schofield, Wisconsin; South Cobb Broadcasting Co. of Austell, Georgia, and Carroll-Haralson Radio, Inc. of Bremen, Georgia; Mr. Hughey of Tallassee, Alabama; and Cherokee Broadcasting Co. of Murphy, North Carolina Several letters were also received from various persons expressing interest or support. A separate request was made by Cherokee Broadcasting Company to consolidate the two petitions for joint consideration which we have done herein.

[2] Formal comments responding to the NTIA petition were received from American Broadcasting Companies, Inc.; National Association of Broadcasters; National Radio Broadcasters Association; McKenna, Wilkinson and Kittner, on behalf of its radio broadcast clients; Institute of High Fidelity, Inc.; Muzak, a division of Teleprompter Corp. Letters were submitted by various interested persons and groups. Each of the comments were helpful in our analysis of the proposals. However, for the most part, the filings concern matters which we have not included for consideration herein. See paragraph 8, *infra*.

[3] This requirement is expressed in Section 307(b) of the Communications Act, which provides: "In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequency, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

[4] Section 73.207 provides (in miles):

	CO–	200	400	600
Class A				
Class of station:				
A	65	40	15	15
B				
C				
Class B				
A		65	40	40
B	150	105	40	40
Class C				
A		105	65	65
B	170	135	65	65
C	180	150	65	65

[5] In 1962, when the Table of Assignments was proposed in the *Second Further Notice of Proposed Rulemaking* (40 F.C.C. 728) the number of existing FM stations (licensed and permit status) was approximately 1,200. The December, 1979, figure for FM stations on the air was over 3,000.

pursue the means by which increased numbers of FM assignments can be made available.

II. Petitions

6. Petitions suggesting changes in the FM assignment structure to permit additional FM assignments were received as noted in paragraph 1. Laurinburg and Bergen request that the Commission initiate a rulemaking proceeding to amend Section 73.206 to permit stations with Class A facilities to operate on the 60 channels designated for use by Class B–C stations. The Laurinburg proposal would favor such operations only in cases where Class B or Class C channels could not be assigned and used by Class B or Class C stations and where no Class A channels are available for assignment. Both petitioners note that the distance requirement tables would have to be amended to reflect co-channel separations resulting from Class A stations operating on Class B–C channels.

7. The NTIA petition requests changes beyond those sought by Bergen and Laurinburg. It supports changes in the FM rules to allow the use of directional antennas, terrain shielding, and more classes of stations. NTIA also supports investigation into such concepts as co-locating adjacent channel stations; reducing the minimum distance separation requirements to force improved receiver performance; a return to the protected contour, case-by-case, approach of making new assignments; and reducing the channel width to something less than the present 200 kHz. These changes, it contends, would provide for the addition of many new assignments.

8. The Commission has carefully reviewed each of the suggestions for change put forward by the petitioners. We have divided the proposals into those that deal primarily with changes within the present allocation framework and those that seek substantive changes to the allocation framework. On the basis of our review, we have decided to focus our attention on those proposals dealing with changes within the present allocation framework. It is our belief that immediate benefits may be obtained from these proposals that would be delayed should we attempt to examine some of the more complex suggestions put forward. For this reason, such areas as terrain shielding, highly directional antennas, reducing the FM bandwidth, and co-locating adjacent channel stations, will not be considered in this proceeding. We will, however, consider those matters in a future proceeding.*

III. Actions now Proposed

9. The Commission has conducted studies which indicate that the efficiency of use of the FM broadcast band may be increased if rule changes along the lines of those suggested by the petitioners are considered. These changes would increase the availability of assignments while providing protection to the service contours (except for Class B stations) used in establishing the original Table and its distance separation requirements. Briefly then, the Commission wishes to make some modifications to the present rules while keeping intact the benefits the Table of Assignments concept represents. Therefore, we propose:

(a) To allow Stations with Class A facilities to operate on Class B–C channels if a Class A channel is not available;

(b) To add two new classes of stations: Class B1 (an intermediate class between Class A and B) with maximum facilities of 20 kW (13 dBk) ERP and antenna height of 92 meters (301.84 feet) above average terrain, and Class C1 (an intermediate class between Class B and C) with maximum facilities of 100 kW (20 dBk) ERP and 305 meters (1,000.66 feet) antenna height;

(c) To permit Class B (including B1) facilities in Zone II;

(d) To require that all existing Class B and C stations meet certain operating minimums for power and antenna height or be subject to reclassification to a lower class of channel. A similar requirement is also proposed for new Class C authorizations which would allow a new Class C assignment to initially start with Class C1 facilities; and

(e) To adopt a new separation table proposed herein (see Table I, *infra.*) which reflects the updated propagation curves (adopted in Dockets 16004 and 18052). It also incorporates a uniform protection criteria for all classes of stations and continues the Commission's conversion of its rules to the International System of Units (SI).[6]

IV. Studies and Discussions

10. After receipt of the Laurinburg petition, a number of computer studies were conducted to determine availability of channels in various areas of the country. These studies confirmed that FM assignments are becoming scrace in many areas and that relief could be obtained by allowing Class A stations to operate on Class B–C channels. Early last year in conjunction with Canadian FM reallocation proposals, an extensive allocation study was conducted for the northeastern portion of the United States. It demonstrated that certain areas are entirely foreclosed from obtaining additional FM assignments. The results of this study are contained in Talbe II. It also indicated that the use of Class B–C channels by Class A station would allow new FM assignments to be made over substantial areas. For example, at present new FM assignments can be made to only 5% of a land area consisting of western Ohio and most of Illinois (see Area #8 of Table II). That percentage increases to 81% if Class A stations are permitted to operate on Class B–C channels. [7] Studies conducted in other areas of the country similarly indicate that a degree of land area gain (hence, new assignment potential) could be obtained from intermixing classes of stations on the same channel. Although not every area in the country would now

* The Commission encourages NTIA to submit data and information describing the potential of directional antennas and terrain shielding to provide equivalent protection. Particular effort must be devoted to the actual-versus-claimed performance of directional antennas. In addition, it appears that agreement must be reached by the scientific community on the method used to calculate terrain effects if this concept is to be seriously considered. The Commission is also interested in discussing how these concepts may be incorporated into our present Table of Assignments approach.

[6] The proposed changes to the FM broadcast service will be in the International System of Units in order to conform to the program adopted on July 28, 1976, in which the Commission is attempting to convert its rules and regulations to metric units. (See Public Notice, FCC 76–737.) Conversion is appropriate at this time because the separation table independently regulates the distances between commercial FM stations. The Table could be converted from miles to kilometers without changing many of the other rules (such as propagation curves) immediately. For clarity, only those rules in Subpart B, Part 73, which are directly related to this proceeding will be converted at this time. Other rules will be updated as necessity and time permit. This conversion period must be recognized as a transition time and there will be slight inconsistencies between some of the rules. For example, the maximum antenna height for a Class A station is 300 feet at present which would be converted to 92 meters or 301.84 feet under the proposed rules. We will make every attempt to keep such discrepancies to a minimum and we welcome comments on the timeliness of this conversion.

[7] No attempt was made to translate these percentages of specific numbers of new assignments that could be gained. For example, 81% refers to land area; not to an increase in the number of new channels. However, it does indicate that new assignments are possible over a wider geographical area and therefore, to potentially more communities.

benefit from the use of lower power Class A facilities on Class B–C channels, the conclusion can be drawn that substantial benefits can be obtained immediately and future gains can be expected in areas that would eventually be otherwise foreclosed under our present rules.

11. The Commission has also made some preliminary investigations into the merits of adding more classes of stations. Additional classes could increase the number of assignments by reducing the distance separation requirements for stations operating with intermediate facilities. The request for additional classes of stations, and to a large part, the Commission's analysis of the proposal, are based on the premise that a disproportionately large number of existing stations are operating with less than maximum facilities. Therefore, these stations are receiving protection in excess of that intended when the original Table and distance separation standards were established. The separation requirements are based upon the assumption that each assigned station is, or at some time in the future will be, operating at the maximum power and antenna height for is particular class. It was the intention of the creators of the Table to provide stations with adequate protection until their financial viability permitted expansion to maximum or near maximum values. Although FM broadcasting has developed to become a competitive and, in some cases, dominate force in today's marketplace, many FM stations continue to opearate with less than desired facilities. The Commission's studies reveal that, based on their service radius, only 20% of the staions occupying Class C assignments operate with facilities that warrant a Class C classification. In fact, nearly 25% of the licensed Class C stations provide service equivalent to that furnished by a maximum facility Class B station. Thus, some 80% of existing Class C stations are receiving excessive protection in terms of their operating facilities. This may well be a contributing factor to the scarcity of FM assignments in many parts of the country and a luxury that can no longer be affored. In addition, the fact that such a large number of Class C stations operate with these lesser facilities may indicate that the licensees believe that the coverage they provide is adequate for their purposes. Thus, in an effort to minimize overprotection, and to permit the assignment of additional classes of stations, we are proposing to create two new classes of stations: Class B1 and Class C1. [8]

12. No subclassification is proposed for Class A stations since we feel it would be undersirable to consider adopting a class of station with less than a 23 kilometer (14.3 miles) service radius. The interfering signal of such a station would be disproportionately large compared to its service radius. Also, a majority of present Class A stations operate with maximum or near maximum facilities. On the other hand, we believe that the addition of a Class B1 has merit because it would offer an intermediate class of channel between Class A and Class B stations. In those instances were a full Class B assignment would not meet the required distance separations, a Class B1 assignment (assuming it would meet the separation criteria) would offer a larger service area and a more efficient assignment than a Class A station. [9]

13. Therefore, we are proposing two additional classes of stations which appear to warrant examination. The five classes of stations and their maximum facilities would be as follows:

	Max ERP in kilowatts (dBk)	Max HAAT in meters (feet)
Class of station:		
A	3 (4.8)	92 (301.84)
B1	20 (13)	92 (301.84)
B	50 (17)	153 (501.97)
C1	100 (20)	305 (1000.66)
C	100 (20)	610 (2001.31)

14. The minimum power for Class A stations under the Commission's proposal would remain at the present value of 100 W (–10 dBk.). The minimum power for Class B1, B, and C1 stations would have to exceed the maximum of the preceding smaller class of station (Classes A, B1, and B, respectively). Except for Class C assignments, no minimum antenna height above average terrain (HAAT) would be specified. Class C stations would be required to operate at 100 kW (20 dBk) power and an antenna height exceeding 305 meters (1000.66 feet) HAAT. Referring to the above Table, it is noted that the difference in Class C and C1 stations is the maximum permissible antenna height.

15. In order to achieve maximum benefit from the additional classes of stations (by eliminating much of the present overprotection from interference), it is necessary to reclassify any existing Class B and C stations that do not meet the minimum facility requirements in paragraph 14. Class B or Class C stations which do not operate with greater than minimum facilities as provided herein would be given 3 years (from the effective date of the action) to expand their facilities or be reclassified to the lower class of channel which more accurately reflects the actual operating facilities. During the 3 year period, each station would be renewed on a conditional basis to insure conversion to minimum Class B or Class C facilities. If the expansion of facilities is not accomplished within the 3 year period then the downward reclassification would take place.

16. A similar reclassification system would apply to newly authorized Class C stations. We are proposing to permit all newly authorized Class C stations to commence operations with Class C1 facilities and have up to 6 years from the date of authorization to conform to minimum Class C facilities. We recognize that the financial burdens to meet the minimum operating requirements can be onerous for Class C licensees until their operation have had sufficient time to become profitable. To allow for equal treatment we would provide that all stations have up to 6 years to convert. Thus all stations which have been authorized within 3 years prior to the effective date of the action taken in this proceeding would also have additional time (up to 6 years from the date a license is granted) to upgrade their facilities or be reclassified downward. However, we do not propose to allow any other class of station to commence operations with less than the minimum proposed facilities because we do not feel that the initial costs are as burdensome, nor are the other station classes subject to the minimum antenna height requirement.

17. Our proposal to increase the number of station classes necessitates amendment of the distance separation table to include the spacing requirements among the new classes (see Table I *infra.*) The present separation table (Section 73.207) provides predicted protection from interference to approximately the 60 dBu (1mV/m) contour for both Class A and Class C stations. Class B assignments are provided predicted protection from interference to approximately the 54 dBu (.5 mV/m) contour. [10] The greater

[8] The facilities proposed for Classes B1 and C1 are different from those noted as B1 and C1 in Docket 20735. Also, Canada does have a Class C1 (same facilities as proposed herein) but not the B1 class of station.

[9] Only 10% of the licensed Class B stations are operating with facilities that are significantly less than maximum. Therefore, overprotection is not the primary reason for proposing to create a Class B1 station.

[10] As stated previously, the present mileage separation table originally provided protection to 927 uV/m contour for Class A stations, 560 uV/m for Class B and 944 uV/m for Class C. However,

Footnotes continued on next page

protection for Class B stations resulted from a desire to obtain a particular service radius (65 kilometers or 40 miles) rather than a need for greater protection. The proposed separation table provides predicted protection to the 60 dBu contour for all classes, including Class B.[11] A change in the protected contour for Class B stations is necessary to obtain meaningful benefits from our proposal to add more classes of stations. For example, under the proposed separation requirements, two Class C1 stations operating on the same channel would be a minimum of 245 kilometers (152 miles) apart. Under the present separation requirements co-channel Class B stations may be no closer than 241 kilometers (150 miles). Unless the protection afforded Class B stations is modified, no reason exists for the creation of the C1 class of station. Also, we are not convinced that Class B stations require or deserve a greater degree of protection than either a Class A or C station. This was, after all, not the original intent when the 55 dBu contour was chosen for protection. The proposed separation table (Table I) does represent a decrease in the protected service radius for a Class B assignment of approximately 11 kilometers (7 miles). However, the reduction in the required separation from 241 kilometers (150 miles) at present to 191 kilometers (119 miles) as proposed for Class B to B co-channel, would appear to justify the smaller service area by enabling more FM assignments to be made. [12]

18. In addition to studies undertaken to determine the effects of allowing Class A assignments on Class B–C channels, the Commission undertook some preliminary studies to determine the impact of adding intermediate classes of stations. We applied the proposals contained herein to three communities in the United States: Rock Hill, South Carolina (population 33,846); Delaware, Ohio (population 15,008); and Rock Falls, Illinois (population 10,287).[13] These communities were randomly selected from a large group which now have no FM assignments; no FM channels presently available for assignment; and a relatively large population. This study did not consider whether there was a demand for an assignment at these communities; whether the community deserves an assignment; or whether other communities would be precluded from obtaining an assignment. Our primary concern was the impact the creation of additional station classes would have on our ability to make additional FM assignments. The results of these studies are tabulated in Table III.

19. We discovered that merely allowing Class A assignments on Class B–C channels, as proposed by Laurinburg and Bergen, would not provide an available assignment for Rock Hill. However, if five classes of stations were considered (the existing classes plus the two additional ones proposed) and all present stations were reclassified according to their present operating facilities, a Class B channel could be assigned to all three communities. This would be the only means of providing Rock Hill, South Carolina, with an FM assignment.

20. Our investigation into the effects of adding more classes of stations was limited because the time required to complete each study is lengthy and substantial hand examination must be made in each case. However, the Commission feels that the indications of merits are strong enough for us to propose rules which would add more classes of stations. We shall continue our evaluation of the effects of these proposed changes as this proceeding advances. We desire comments which might better show the potential (or lack thereof) in total numbers of assignments such a proposed allocation structure could have.

21. Interested persons desiring an FM assignment at a specific community that would be available only under the proposed rules should not submit a petition for rule making to amend the FM Table of Assignments (§ 73.202(b)) during the comment period. Rather they should wait until a decision is made in this proceeding. Assuming positive Commission action, the request would then be made through the normal "petition" procedure (see § 1.401 *et al.*).

22. The attached Appendix does not contain a proposed revision of § 73.213 (dealing with short-spaced stations). The Commission recognizes that this section must be revised to reflect the five classes of stations. However, no proposal is being made at this time. Consideration of these rules will commence, if necessary, at a later date.

23. Accordingly, it is proposed to amend Part 73 of the Commission's Rules and Regulations as set forth in the attached Appendix.

24. Authority for the actions taken herein is contained in Sections 4(i), and 303 (a), (b), (f) and (g) and (r) of the Communications Act of 1934, as amended.

25. Pursuant to procedures set out in § 1.4, 1.415, and 1.419 of the Commission's Rules and Regulations, interested parties may file comments on or before June 13, 1980, and reply comments on or before August 13, 1980. 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.

26. In accordance with § 1.419 of the Commission's Rules and Regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying docket number BC 80–90.

27. 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.

28. For further information concerning this proceeding contact Kathryn Hosford, 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, *ex parte* contacts presented to the Commission in proceedings such as this one will be disclosed in the public docket file.

29. 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 presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this manner, he or she should follow the Commission's procedures governing *ex parte* contacts

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Footnotes continued from last page
adoption of new propagation curves in 1975 (53 F.C.C. 2d 855) refined these figures.

[11] Although the protection criteria of the separation tables (present and proposed) has been noted in this document, it is stated for reference purposes only. The nature and extent of protection from interference accorded to FM broadcast stations is limited solely to that which results from the station separation requirements and other rules as defined by Section 73.209 of the Commission's Rules.

[12] The proposed separation table represents a 1 mV/m protected service radius of 23 kilometers (14.5 miles) for Class A, 36 kilometers (22 miles) for Class B1, 53 kilometers (33 miles) for Class B, 73 kilometers (45 miles) for Class C1, and 92 kilometers (57 miles) for Class C. The signal to interference ratios used to determine allowable interference were left unchanged at 10:1 for co-channel stations and 2:1 for first-adjacent channel stations. The second-adjacent and third-adjacent channel separations again represent a replacement service by requiring separation between stations corresponding to the service radius only. All calculations were rounded off to the nearest kilometer.

[13] Population figures are taken from the 1970 U.S. Census.

in informal rule making. A summary of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202–632–7000).

Federal Communications Commission,*

William J. Tricarico,

Secretary.

Table I.—*Minimum Distance Requirements Per Frequency Separations In Kilometers (Miles)*

Relation	Co-channel	200 kHz	400 kHz	600 kHz
A to A	98 (61)	58 (36)	23 (14)	23 (14)
A to B1	130 (81)	79 (49)	36 (22)	36 (22)
A to B	161 (100)	102 (63)	53 (33)	53 (33)
A to C1	196 (122)	129 (80)	73 (45)	73 (45)
A to C	222 (138)	160 (99)	92 (57)	92 (57)
B1 to B1	143 (89)	92 (57)	36 (22)	36 (22)
B1 to B	174 (108)	115 (72)	53 (33)	53 (33)
B1 to C1	209 (130)	142 (88)	73 (45)	73 (45)
B1 to C	235 (146)	173 (106)	92 (57)	92 (57)
B to B	191 (119)	131 (81)	53 (33)	53 (33)
B to C1	225 (140)	158 (98)	73 (45)	73 (45)
B to C	251 (156)	189 (118)	92 (57)	92 (57)
C1 to C1	245 (152)	178 (111)	73 (45)	73 (45)
C1 to C	271 (168)	210 (131)	92 (57)	92 (57)
C to C	290 (180)	229 (142)	92 (57)	92 (57)

NOTE 1.—The distance between stations of different classes apply regardless of which is the proposed station under consideration (*e.g.*, distances shown from a new Class A station to an existing Class C station represent the same distance as that between a new Class C and an existing Class A station).

NOTE 2.—The mileage requirements of § 73.207 for stations or assignments separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels) will not be addressed in this proceeding. Classes B1 and C1 will abide by the requirement of Classes B and C, respectively, in these instances.

NOTE 3.—Except within the Mexican border area (320 kilometers or 199 miles of the common border), Class D (secondary) assignments will be governed by § 73.509. All assignments within the border area (including Class D) must abide by the separation table as stated in § 73.504(c).

Table II.—*Effects of Allowing Class A Assignments on Class B–C Channels*

Area and Description	Zone	Present availability [1] (percent)	Proposed availability [2] (percent)
1 Northern Maine	II	99	100
2 Eastern Maine	I and II	100	100
3 Western Maine	I and II	54	91
4 Northern NY/VT	I	57	97
5 Western NY/PA	I	30	71
6 PA/OH/WV	I	11	36
7 Ohio	I	12	60
8 OH/IL	I	5	81
9 Southern Michigan	I	2	41
10 Central Michigan	II	50	97

[1] Represents that percentage of geographic area which is available for further FM assignments under the present allocation scheme.

[2] Represents that percentage of geographic area which would be available for further FM assignments if Class A assignments were allowed on Class B–C channels.

Table III.—*Availability of Assignments (for Three Communities Under the Proposed Revisions)*

	Rock Hill, S.C.	Delaware, Ohio	Rock Falls, Ill.
Population: (1970 Census).	33,846	15,008	10,287.
Present Local Aural Service.	WTYC(AM) Daytime.	WDLR(AM) Daytime.	None.
	WRHI(AM) Fulltime.	WSLR(FM) Class D.	
	WPRV(FM) Educational.		
Availability under present structure.	0	0	0.
If Class A on B–C Channels.	0	254A, 282A, 300A.	236A, 299A.
If Class B in Zone II.	0	NA	NA.
If five classes of stations.*.	225B1, 291B.	254B	263B.

*Assumes reclassification of present stations: For Rock Hill, S.C., of 90 Class C assignments that are within the area of consideration, 34 stations would be reclassified as Class C1, 15 would become Class B, 9 would become Class B1, and 1 would become a Class A station.

For Delaware, Ohio, of 168 Class B assignments that are within the area of consideration, 14 would be reclassified as Class B1. Of 4 Class C assignments within the area, 2 would become Class C1 and 2 would become Class B stations.

For Rock Falls, Ill., of 80 Class B assignments that are within the area of consideration, 9 would be reclassified as Class B1. Of 22 Class C assignments within the area, 13 would become Class C1 and 4 would become Class B stations.

*See attached Statement of Chairman Ferris and Concurring Statement of Commissioner Brown.

Appendix

1. Section 73.202(a) is proposed to be modified to read as follows:

§ 73.202 Table of assignments.

(a) General. The following Table of Assignments contains the channels (other than noncommercial educational channels) assigned to the listed communities in the United States, its territories and possessions. Channels designated with an "A" are for Class A FM stations. All other listed channels are for Class B stations in Zones I and I–A and for Class C stations in Zone II *unless otherwise designated.* Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only. There are specific noncommercial educational FM assignments (Channels 201–220) for various communities in Arizona, California, New Mexico, and Texas. These are set forth in § *73.504.*

* * * * *

2. Section 73.203(b) is proposed to be modified as follows:

§ 73.203 Availability of channels.

(a) * * *

(b) A channel assigned to a community listed in the Table of Assignments is available upon application *to* any unlisted community which is located withi *16 kilometers (9.9 miles)* of the listed community if the channel requested is a Class A *assignment* and *24 kilometers (14.9 miles)* if the channel is a Class *B1, B, C1, or C assignment,* provided no other channel in the listed community has been similarly assigned to another community and provided further that the unlisted community has not already removed a channel from any other listed community. Where channels are assigned to two or more communities listed in combination in the Table of Assignments the provisions of this paragraph shall apply separately to each community so listed. The distance between communities shall be determined by the distance between the respective coordinates thereof as set forth in the publication of the *United States Department of the Interior, entitled "Index to The National Atlas of the United States of America, 1970." (This publication may be purchased from the Department of the Interior, Geological Survey, Washington, D.C. 20244.)* If said publication does not contain the coordinates of either or both communities, the coordinates of the main post office in either or both of the communities shall be used. The method to be followed in making the measurements is set forth in § 73.208(c).

3. Section 73.206(a)(2), b (1), (2) and (4) is proposed to be modified to read as follows:

§ 73.206 Classes of commercial channels, and stations operating thereon.

(a) * * *

(1) * * *

(2) A Class A station is a station which operates on a Class A channel *if available, but which may otherwise operate on a Class B–C channel,* and is designed to render service to a relatively small community, city or town, and the surrounding rural area.

(3) * * *

(b) *Class B, B1, C and C1 channels and stations.* (1) Except for the channels specified in paragraph (a)(1) of this section, all of the channels listed in § 73.201 from 222 through 300 (92.3 through 107.9 MHz) are classified as Class B–C channels, and (subject to the restrictions set forth in § 73.204) *may be used by Class A, B1, and B in Zones I and I–A and by all classes in Zone II* (there are no Class *C1 or* C stations in Zones I and I–A).

(2) Class *B1 and* B station is a station which operates on a Class B–C channel in Zone I, I–A, *or Zone II* and is designed to render service to a sizable community, city, or town, or to the principal city or cities of an urbanized area, and to the surrounding area.

(3) * * *

(4) A Class *C1 and* C station is a station which operates on a Class B–C channel in Zone II, and is designed to render service to a community, city, or town, and large surrounding area.

* * * * *

4. Section 73.207(a) is proposed to be modified to read as follows:

§ 73.207 Minimum distance separation between stations.

(a) Petitions to amend the Table of Assignments (§ 73.202(b)) (other than those expressly requesting amendment of this Section or § 73.205) will be dismissed and no application for a new station, or change in the channel or location of an existing station, other than a Class D (secondary) station, will be accepted for filing, unless the proposed facilities will be located at least as far from the transmitter sites of other co-channel and adjacent channel stations (both existing and proposed) as the distances in *kilometers (miles)* specified in this paragraph. Proposed stations of the respective classes shown in the left-hand column of the following *tables* shall be located no less than the distance shown from co-channel stations, and first adjacent-channel stations (200 kHz removed), second and third adjacent-channel stations (400 and 600 kHz removed), *and separated by 53 or 54 channels (10.6 or 10.8 MHz removed)* in the remaining columns of the table. The distances shown between stations of different classes apply regardless of which is the proposed station under consideration (e.g., distances shown from a new Class A station to an existing Class C station are also the distances between a new Class C and an existing Class A station).

(1) *The following distance separations for channel assignments within the United States (between domestic assignments) must be adhered to.*

Minimum Distance Separation Requirements in Kilometers (Miles)

Relation	Cochannel	200 kHz	400kHz	600kHz	10.6/10.8 MHz
A to A	98 (61)	58 (36)	23 (14)	23 (14)	8 (5)
A to B1	130 (81)	79 (49)	36 (22)	36 (22)	16 (10)
A to B	161 (100)	102 (63)	53 (33)	53 (33)	16 (10)
A to C1	196 (122)	129 (80)	73 (45)	73 (45)	32 (20)
A to C	222 (138)	160 (99)	92 (57)	92 (57)	32 (20)
B1 to B1	143 (89)	92 (57)	36 (22)	36 (22)	24 (15)
B1 to B	174 (108)	115 (72)	53 (33)	53 (33)	24 (15)
B1 to C1	209 (130)	142 (88)	73 (45)	73 (45)	40 (25)
B1 to C	235 (146)	173 (108)	92 (57)	92 (57)	40 (25)
B to B	191 (119)	131 (81)	53 (33)	53 (33)	24 (15)
B to C1	225 (140)	158 (98)	73 (45)	73 (45)	40 (25)
B to C	251 (156)	189 (118)	92 (57)	92 (57)	40 (25)
C1 to C1	245 (152)	178 (111)	73 (45)	73 (45)	48 (30)
C1 to C	271 (168)	210 (131)	92 (57)	92 (57)	48 (30)
C to C	290 (180)	229 (142)	92 (57)	92 (57)	48 (30)

(2) *Under the Canada-United States FM Broadcasting Agreement, the following separations to Canadian stations and assignments must be adhered to when within 402 kilometers (250 miles) of the common border. Class B1 assignments will be considered as Class B assignments when using this table.*

Minimum Distance Separation Requirements in Kilometers (Miles)

Relation	Cochannel	200 kHz	400kHz	600kHz
A to A	145 (90)	80 (50)	40 (25)	32 (20)
A to B	217 (135)	137 (85)	72 (25)	64 (40)
A to C1	241 (150)	161 (100)	105 (65)	97 (60)
A to C	241 (150)	193 (120)	121 (75)	113 (70)
B to B	249 (155)	169 (105)	97 (60)	72 (45)
B to C1	274 (170)	201 (125)	121 (75)	97 (60)
B to C	274 (170)	225 (140)	137 (85)	113 (70)
C1 to C1	306 (190)	225 (140)	145 (90)	113 (70)
C1 to C	306 (190)	249 (155)	169 (105)	121 (75)
C to C	306 (190)	257 (160)	169 (105)	129 (80)

Note.—*Under the Canada-United States Agreement, a short spacing of up to 8 kilometers (5 miles) in the direction of a related station may be considered acceptable depending on the circumstances of each individual case.*

(3) Under the Mexican-United States FM Broadcasting Agreement, *the following separations to Mexican stations and assignments must be adhered to when within 320 kilometers (199 miles) of the common border. Class B1 and Class C1 stations and assignments should be considered as Class B and Class C stations and assignments, respectively, when using this table.*

Minimum Distance Separation Requirements in Kilometers (Miles)

Relation	Cochannel	200 kHz	400 kHz	600kHz	10.6/10.8 MHz
A to A	105 (65)	65 (40)	25 (15)	25 (15)	8 (5)
A to B	175 (110)	105 (65)	65 (40)	65 (40)	16 (10)
A to C	210 (130)	170 (105)	105 (65)	105 (65)	32 (20)
A to D	95 (60)	50 (30)	25 (15)	25 (15)	8 (5)
B to B	240 (150)	170 (105)	65 (40)	65 (40)	25 (15)
B to C	270 (170)	215 (135)	105 (65)	105 (65)	40 (25)
B to D	170 (105)	95 (60)	65 (40)	65 (40)	16 (10)
C to C	290 (180)	240 (150)	105 (65)	105 (65)	48 (30)
C to D	200 (125)	155 (95)	105 (65)	105 (65)	25 (15)
D to D	18 (11)	10 (6)	5 (3)	5 (3)	3 (2)

5. Section 73.211(a)(1), (2), (3), (b)(1) and (d) are proposed to be modified to read as follows:

§ 73.211 Power and antenna height requirements.

(a) *Minimum requirements.* (1) Except as provided in paragraph (b)(2) of this section, the minimum effective radiated power shall be: Class A: greater than or equal to 100 watts (−10 dBk); *Class B1: greater than 3 kW (4.8 dBk);* Class B: *greater than 20 kW (13 dBk); Class C1: greater than 50 kW (17 dBk);* Class C: *equal to 100 kW (20 dBk).*

(2) *A minimum antenna height above average terrain is specified only for Class C stations and must exceed 305 meters (1000.66 feet).* No minimum antenna height above average terrain is specified *for Class A, B1, B, or C1 stations.*

(3) *A newly authorized Class C station may operate for up to six (6) years from the issuance of a license with the facilities of a Class C1 assignment, and still maintain a Class C assignment classification. At the expiration of the 6 year period the Class C station must conform to the minimum requirements of this section or be reclassified to a Class C1 assignment.*

(b) *Maximum power and antenna height.* (1) The maximum effective radiated power in any direction and maximum antenna height for equivalence purposes, shall be as follows for the various classes of stations:

Class	Maximum power	Maximum antenna height (above average terrain) in meters (feet)
A	3 kW (4.8 dBk)	*92 (301.84)*
B1	*.20 kW (13.0 dBk)*	*92 (301.84)*
B	.50 kW (17.0 dBk)	*153 (501.97)*
C1	*.100 kW (20.0 dBk)*	*305 (1000.66)*
C	.100 kW (20.0 dBk)	*610 (2001.31)*

(2) * * *
(3) * * *
(c) * * *

(d) *Existing stations.* (1) Stations authorized as of September 10, 1962 which do not conform to the requirements of this section, may continue to operate as authorized. For stations operating with facilities in excess of those specified in paragraph (b) of this section, no change in facilities will be authorized which either increases the effective radiated power or extendeds the location of the 1 mV/m field strength contour beyond that of the present authorization in any direction. The provisions of this section shall not apply to applications to increase facilities for those stations operating with powers less than the minimum powers specified in paragraph (a) of this section.

(2) *Stations authorized as of which do not conform to the requirements of this section, may continue to operate as authorized for a period of three years. All renewals of stations authorized as of will be at their present classification, with the condition that they conform to the requirements of this section or be reclassified on.*

6. Figure 3 of §73.333 is revised as follows:

§ 73.333 Engineering charts.

This Section consists of the following Figures 1, 1A, 2 (slider), 3, 4, and 5.

(a) *Figure 3 is composed entirely of straight lines which can be computed using the following equations:*

(1) for Class A: if $H < 92$ meters (301.84 feet) then $P = 4.8$ dBk; if $H > 92$ meters (301.84 feet) then $P = 42.97 - 19.44 \log H$.

(2) for Class B1: if $H < 92$ meters (301.84 feet) then $P = 13$ dBk; if $H > 92$ meters (301.84 feet) then $P = 54.56 - 21.17 \log H$.

(3) for Class B: if $H < 153$ meters (501.97 feet) then $P = 17$ dBk; if $H > 153$ meters (501.97 feet) then $P = 65.55 - 22.22 \log H$.

(4) for Class C1: if $H < 305$ meters (1000.66 feet) then $P = 20$ dBk; if $H > 305$ meters (1000.66 feet) then $P = 77.56 - 23.17 \log H$.

(5) for Class C: if $H < 610$ meters (2001.31 feet) then $P = 20$ dBk; if $H > 610$ meters (2001.31 feet) then $P = 78.38 - 20.96 \log H$.

where

H = antenna height above average terrain in meters.

P = maximum power allowed in dBk.

These equations take precedence over Figure 3.

* * * * *

7. Section 73.507(a) reference to Class D stations is deleted as follows:

§ 73.507 Minimum distance separation between stations.

(a) Minimum distance sepatations. No application for a new station, or change in channel or transmitter site or increase in facilities of an existing station, will be granted unless the proposed facilities will be located so as to meet the adjacent channel distance separations specified in § 73.207(a) for the class of station involved with respect to assignment on Channels 221, 222 and 223 listed in § 73.201 (except where, in the case of an existing station, the proposed facilities fall within the provisions of § 73.207(b)).

* * * * *

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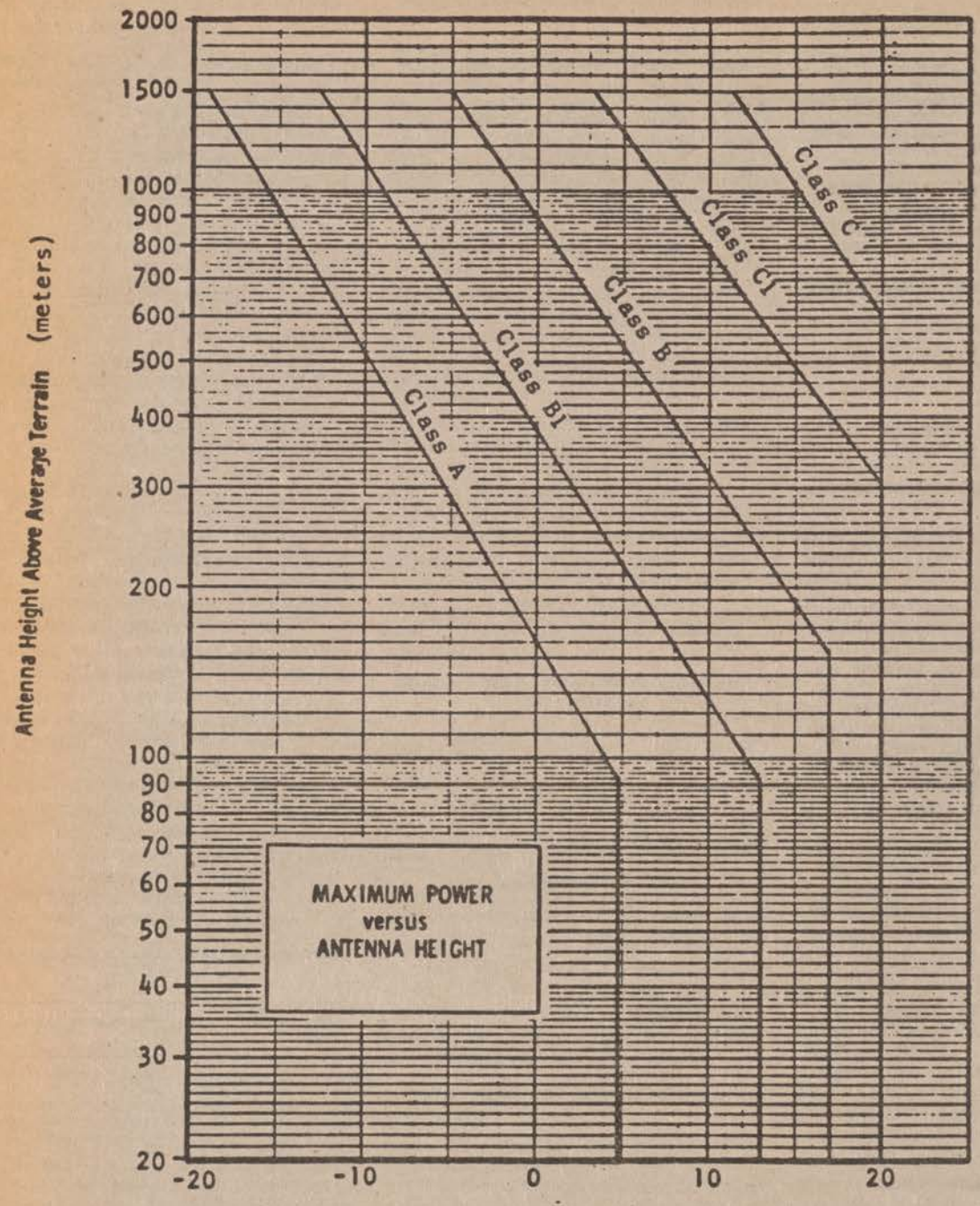

FCC §73.333, Figure 3

BILLING CODE 6712-01-C

February 28, 1980.

Separate Statement of Charles D. Ferris, Chairman

Re: Modification of FM Broadcast Rules to increase the potential number of new FM radio stations.

Today's action is only one of the many steps we have been taking during the past few months to make the radio market place more competitive and more responsive to consumer needs. The AM radio band is being expanded as a result of the decisions made last year in WARC 79. Our upcoming proposal for 9 Khz spacing before the Region II conference in Brazil next month would create even more new opportunities for fulltime AM stations. All of these changes represent important steps in using the electromagnetic spectrum more efficiently for AM radio.

Today's proposed rulemaking would also increase significantly the number of potential FM radio stations, by providing greater flexibility to our FM table. Many FM stations do not radiate their signal over their entire protected area, nor do they plan to. This results in a fully utilized FM spectrum on paper, but less than full utilization in reality. The Notice proposes to make the areas of protection more precise, opening spaces for new FM allotments. The new rules would also allow radio broadcasters who are unable to serve a large area to concentrate their service on a smaller one.

Actions like the one the FCC proposes today are among the most effective structural tools we have for encouraging program diversity and minority expression, enabling us to reduce governmental intrusion in radio programming areas. We recognized this in our Notice last fall proposing to deregulate some aspects of our direct supervision of radio programming service.* We committed at that time to look for ways to expand the opportunities for new radio outlets to provide additional consumer choices. The actions we have taken in the interim to open up both the AM and FM radio bands, including this one, I believe, have lived up to that commitment.

We will continue these efforts to expand the public's choices among more independent radio voices. As we note in this item, we plan to study in the future other FM radio issues raised in this proceeding, such as the viability of terrain shielding, directional antennas, and computer generated protective contours for FM, that could help us achieve this end.

Concurring Statement of Commissioner Tyrone Brown

Re: Modification of FM Broadcast Station Rules To Increase *the Availability of Commercial FM Broadcast Assignments*

The action we take today—initiating a rulemaking proceeding re-examining our FM assignment practices—is another step in expanding opportunities for new voices to enter the broadcast industry. The proposed amendments—allowing stations with Class A facilities to operate on Class B–C channels if a Class A channel is not available, adding intermediate classes of FM stations (B1 and C1), permitting Class B and B–1 stations in Zone II, adopting a new separations table,—are small but significant actions [1] which, when combined with other Commission initiatives, reinforce our commitment to a structural approach to radio broadcast regulation.

This structural approach has been reflected in, among other things, our actions in the Clear Channel proceeding, the U.S. position at the 1979 WARC which resulted in an expansion of the spectrum available for AM radio, and the Commission's position at the upcoming Region II conference in favor of 9 KHz spacing. All of these initiatives have served notice that our goal is to foster diversity and thereby increase competition in the radio marketplace.

The more competition is promoted in the radio marketplace, the more compelling will be the arguments for deregulation of radio. Our current radio deregulation proceeding [2] is premised on the view that competition exists in the radio marketplace sufficient to meet the public interest obligations of broadcasters. Whether or not that situation now obtains (a proposition which will be tested in the rulemaking proceeding), the action we take today and our previous initiatives cannot help but foster an environment which eventually will make substantial deregulation of radio a reality. As I said in my concurring statement in the radio deregulation matter, if competition does indeed exist in radio broadcasting and if the public interest can be served by that competition, there is little reason for the heavy hand of government regulation in that area.[3]

[FR Doc. 80-8284 Filed 3-18-80; 8:45 am]
BILLING CODE 6712-01-M

*44 FR 57636, 57667 (¶ 270) (1979).

[1] I recognize that the NTIA proposals for use of directional antenna and terrain shielding factors, reduction of FM channel spacing and co-located adjacent channel stations have much merit. While I am convinced that consideration of these proposals will delay institution of the amendments proposed today and thus concur in the decision not to pursue them in a formal proceeding at this time, I have urged the staff to bring the Commission a recommendation on the NTIA proposals as expeditiously as possible.

[2] *Deregulation of Radio BC Docket No.* 79-219, 73 FCC 2d 457, (1979)

[3] In that proceeding I asked whether "competition exist(s) in the radio marketplace to the extent that we can wash our hands of any involvement in nonentertainment programming." I offered an alternative proposal to the Commission's "preferred position" because I do not believe the present radio marketplace is marked by sufficient competition to meet the public interest obligations of broadcasters. 73 FCC 2d at 601.

47 CFR Parts 81 and 83

[Gen. Docket No. 80-87; FCC 80-84]

Implementing the Provisions of Chapter 4 of the 1974 Safety Convention Pertaining to Radio Equipment Required on Compulsorily Fitted Vessels

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The FCC proposes the amendment of Parts 81 and 83 of the rules to implement that portion of the 1974 Safety of Life at Sea (SOLAS) Convention pertaining to the radio installations required on compulsorily fitted radio telegraph and radiotelephone vessels. The proposed regulations pertains to vessels subject to the 1974 SOLAS and the Communications Act of 1934, as amended. The Commission is required under the Communications Act of 1934, as amended to make rules and regulations necessary to carry out the provisions of any treaty or convention as it relates to the use of radio. These changes will improve the safety of life at sea measurably. The purpose of this notice of proposed rulemaking is to allow the public an opportunity to comment on the specific proposals.

DATES: Comments must be received on or before April 14, 1980, and reply comments must be received on or before April 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: Robert C. McIntyre, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

[Gen. Docket No. 80-87]

Proposed Rulemaking

Adopted: February 28, 1980.

Released: March 13, 1980.

In the Matter of Amendment of Parts 81 and 83 of the Commission's Rules to implement the provisions of Chapter 4 of the 1974 Safety Convention pertaining to radio equipment required on compulsorily fitted vessels.

1. Notice of Proposed Rulemaking in the above entitled matter is hereby given.

Background

2. On May 25, 1980, the International Convention for the Safety of Life at Sea (SOLAS), 1974, comes into force replacing and abrogating the previous SOLAS Convention of 1960. The Commission is charged, in Section 303(r) of the Communications Act of 1934 as amended, with the responsibility to make "rules and regulations . . . as may be necessary to carry out the provisions of . . . any treaty or convention insofar as it relates to the use of radio." The majority of United States ocean going vessels are subject to the SOLAS Convention and Part II of Title III of the Communications Act of 1934, as amended. The changes required in

compulsorily [1] fitted vessels by the 1974 SOLAS Convention will measurably improve the safety of life at sea; therefore, we have in most cases made complementary changes to the regulations governing vessels subject to Part II of Title III of the Communications Act.[1a] The purpose of this Notice is to give the public opportunity to comment on specific Commission proposals to implement the provisions of 1974 SOLAS and rules governing vessels subject to the Communications Act.

3. The 1974 SOLAS incorporates changes prepared by the Intergovernmental Maritime Consultative Organization's (IMCO) Subcommittees to improve the safety of life at sea through, among other things, the use of radio. The 1974 SOLAS maintains in large part the existing regulations and provides for amendments to the 1960 SOLAS which were adopted by the IMCO Assembly and accepted by two-thirds of the Contracting Governments.

4. The changes required to bring the 1974 SOLAS into force can be conveniently grouped into three discrete areas: radio watch requirements, radio installations and equipment technical standards. In the paragraphs which follow we will briefly describe the proposed amendments to the Commission's rules implementing the terms of this treaty.

5. In a related matter, the Commission released a Report and Order [2] on March 23, 1979, which required that compulsorily fitted radiotelegraph ships carry a 2182 kHz radiotelephone installation to permit participation in a common distress system. The Commission was subsequently informed that the 1974 SOLAS Convention, the administrative requirements to bring it into force having been satisfied, would become effective on May 25, 1980. The 1974 SOLAS requires that all ships be fitted with a radiotelephone distress frequency watch receiver. A single receiver can satisfy the requirements of the rules adopted in Docket 21089 as well as those required to implement the 1974 SOLAS Convention. For this reason the Commission issued an Order [3] staying the January 1, 1980, effective date in Docket 21089 for Sections 83.202, 83.203 and 83.445(b) of the rules requiring installation of a receiver. This Notice includes proposals concerning those sections of our rules which were stayed and action will be taken in this proceeding to finalize these regulations.

Radio Watch Requirements

6. The 1974 SOLAS Convention modifies the radiotelegraph watch on 500 kHz, the radiotelephone watch on 2182 kHz and introduces a VHF watch requirement for radiotelephone and radiotelegraph fitted vessels. The proposed rules concerning radio watch requirements are applicable to vessels subject to the Safety Convention as well as the Communications Act of 1934, as amended, except in the case of the VHF installation which requirements pertain only to Convention vessels. Vessels subject to the Communications Act are presently required by national statutes to fit with VHF radiotelephone and we see no reason for duplicative rules in this regard.

7. Radio officers on radiotelegraph fitted vessels are allowed to discontinue the 500 kHz distress frequency watch, when operating on other frequencies or when performing other essential radio duties, only if it is not practical to listen with split headphones [4] or a loudspeaker. Essential radio duties are defined by the 1974 SOLAS to be the urgent repair of specific radio equipment. Additionally, the 1974 SOLAS permits the 500 kHz watch to be discontinued to perform maintenance of communication and navigation equipment provided the vessel is fitted with a digital selective calling system.[5] In no instance is it permitted to discontinue the radio watch during the two 3 minutes, hourly silence periods.

8. The 1974 SOLAS requires a continuous radio watch and the fitting of a radiotelephone distress frequency watch receive as part of the radiotelegraph station to permit reception of radiotelephone distress messages on 2182 kHz. The distress frequency receiver is required to be capable of receiving the radiotelephone two tone alarm using a filtered loadspeaker or a device which automtically opens the speaker (auto alarm) when the alarm is received. Several administrations have indicated that the use of filtered loudspeakers on the bridge are detrimental to the safety of navigation because of the constant noise which is generated by these devices. Consequently, we have required the auto alarm facility rather than a filtered loudspeaker. The proposed receiver is capable of automatically responding to the radiotelephone two tone alarm and the vital navigational warning signal. We have modified our regulations concerning radiotelegraph vessels to permit the radiotelephone watch to be stood using the automatic facility in this receiver in lieu of an aural listening watch when, in the opinion of the master such aural listening is detrimental to the safe navigation of the ship. If the radiotelephone watch is stood from the bridge of the vessel the proposed rules require that the radiotelephone distress frequency receiver must be used.

9. Radiotelephone compulsorily fitted vessels are also required by the 1974 SOLAS to include as part of the installation a radiotelephone distress frequency watch receiver of the same type as that required on radiotelegraph fitted vessels and discussed in paragraph 8 above. Use of the receiver's automatic facility is, as in the case of the radiotelegraph ship, to be determined by the ship's master.

10. Radiotelephone and radiotelegraph vessels subject to the 1974 SOLAS as required to additionally fit a VHF installation to permit a listening watch to be maintained on the bridge for such periods and on such channels as may be required by governments party to the SOLAS Convention.

We have not proposed that compulsorily fitted vessels subject only to the Communications Act of 1934 install such equipment since their normal voyages do not require participtiion in vessel traffic systems operated by foreign governments. Vessels subject to the SOLAS Convention will be obligated by the proposed rules to stand a listening watch while navigating in water under the sovereignty of another administration when required to do so by that administration.

Radio Installations

11. The 1974 SOLAS Convention modified the requirements governing the radiotelegraph installation to provide for a radiotelephone distress frequency receiver, a homing facility on the radiotelephone distress frequency (2182

[1] A "compulsorily" fitted vessel as used in this proceeding applies to either a radiotelephone or a radiotelegraph fitted vessel subject to the SOLAS Convention and/or Part II, Title III of the Communications Act of 1934, as amended. Generally radiotelephone vessels are over 300 but less than 1600 gross tons and radiotelegraph vessels are 1600 gross tons and over.

[1a] The Communications Act of 1934 requires a continuous watch and SOLAS creates exemptions from the watch requirements. These provisions are not in conflict, however, since SOLAS as ratified by Congress is a later expression of congressional intent than the Communications Act thus we do not regard the different language of the Act and of SOLAS to be inconsistent regarding watchkeeping.

[2] Docket 21089, Report and Order, Adopted March 15, 1979, FCC 79-162, 44 FR 18501.

[3] Order, Adopted September 11, 1979, FCC Mimeo November 14638.

[4] Split headphones receive a different channel in each ear-piece which permits monitoring of two frequencies.

[5] Digital Selective Calling is a internationally approved system for automatically contacting vessels on MF, HF and VHF frequencies. See International Radio Consultative Committee (CCIR) Recommendations 493-1 and 541.

kHz) to aid in locating vessels and modification of the reserve power supply to furnish a source of energy for the VHF installation in an emergency situation.

12. The 1974 SOLAS Convention modified the requirements governing the radiotelephone installation to provide for a radiotelephone distress frequency receiver and modification of the reserve supply to furnish a source of energy for the VHF installation in an emergency situation. Further we are removing the mandatory requirement for the variable tuned receiver (§ 83.488(b)) and requiring the installation of the distress frequency watch receiver on the bridge to stand the required radiotelephone radio frequency watch. The manually tuned receiver, if operationally required, may continue to be used on a voluntary basis.

13. The VHF installation described in the proposed rules is required by the 1974 SOLAS to satisfy the VHF watch requirements discussed in paragraph 10 of this Notice. The VHF installation comprises a transmitter, a receiver, a source of power capable of actuating the required equipment and an efficient antenna system. The rules we have proposed concerning this installation are based in part on the bridge-to-bridge radiotelephone equipment (Subpart X of Part 83) and in part on the draft standards prepared by IMCO. The proposed technical requirements for the VHF installations have been designed to permit one piece of equipment to satisfy both the bridge-to-bridge and SOLAS requirements. This requirement has not been imposed on radiotelephone and radiotelegraph vessels subject to the Part II of Title III of the Communications Act of 1934 since national statutes require the fitting of VHF installations.

Equipment Technical Standards

14. The equipment configurations described in the following paragraphs are based on equipment operational standards prepared by IMCO's Subcommittee on Radiocommunications. These draft standards have been published by the Commission in Docket 20274.[6] The Notices of Inquiry released in this docket were used to inform the public concerning equipment standards being developed by IMCO and to provide guidance to the U.S. Delegation preparing for the Subcommittee on Radiocommunications meetings held in London, England. To the extent possible we intend to employ the operational standards described in these Notices when adopting national standards governing equipment used in a world wide distress and safety system. Additionally, common equipment standards provide for internationally compatible operation and potential cost savings associated with the production of a single type of equipment. The Notices in Docket 20274 have addressed standards applicable to the two tone alarm keyer, distress frequency watch receiver and the VHF installation among others.

15. The proposed radiotelephone distress frequency watch receiver is required as part of compulsorily fitted radiotelephone and radiotelegraph installations. The technical standards proposed for the watch receiver can be found in § 83.559 of the attached Appendix. These standards were previously released by the Commission in Docket 20274 and are based on the IMCO Resolution A.383(X) which was prepared by the Submittee on Radiocommunications. This Resolution, which was adopted after the 1974 SOLAS was drafted, goes beyond the 1974 SOLAS in two requirements and IMCO recommends that watch receivers be designed to meet the technical standards required by this resolution. In the first case the 1974 SOLAS sets out the radiotelephone auto alarm equipment separately and requires the receiver to have an automatic muting device similar to the radiotelephone auto alarm. Resolution A.383(X) incorporates the auto alarm facility in the watch receiver eliminating the need for a separate equipment to automatically respond to the two tone alarm signal. We agree with the intent of the IMCO resolution concening the proposed rules and consequently have not proposed a separate radiotelephone auto alarm be carried on compulsorily fitted vessels.

16. Secondly, the 1974 SOLAS requires that the watch receiver and auto alarm be automtically activated by the two tone radiotelephone alarm signal. Resolution A.383(X) recommends that the radiotelephone watch receiver be required to respond additionally to the vital navigational warning signal. The proposed rules require that the watch receiver respond to both types of signals. We have made this proposal to comply with the intent of the Resolution, however, we are concerned that the requirement to have the receiver respond to this additional signal may significantly increase the probability of false alarms. We would specifically like to direct the attention of equipment manufactures to this point and receive comments on this matter from interested parties.

17. The 1974 SOLAS requires an alarm keyer to be installed on compulsorily fitted radiotelegraph vessels equipped with radiotelephone transmitters and continues this requirement for radiotelephone vessels. The Commission in a earlier action[7] required that keyers be installed on radiotelegraph vessels. The rules proposed in the attached appendix are more detailed than those set out in our current rules or in the 1974 SOLAS. The proposed requirements are based largely on the standards attached to Notices in Docket 20274 and are designed to permit more reliable detection of the radiotelephone two tone alarm. Two models of keyers currently manufactured and approved by the Commission comply with the proposed rules which is indicative tht the changes are well within the state of the current art. The Commission is of the opinion that it is generally in the public interest to introduce anticipated mandatory equipment changes as early as possible to keep the number of equipments which will eventually be obsoleted to a minimum. This assumes that existing equipment can continue to be used and that an acceptable time table for introduction of any changes can be agreed to by a majority of those concerned. We have tentatively established a date of January 1983 after which alarm keyers fitted in new installations must comply. Comments are solicited concerning the appropriateness of this date.

18. The VHF transceiver required by the 1974 SOLAS must provide communications on any VHF channel designated by a foreign administration for use in a VHF navigational safety system when vessels are operating in that country's national waters. We have generally followed the draft specifications set out in Docket 20274[8] for the VHF installation and relied on our bridge-to-bridge technical regulations in developing the proposed standards. Since many of the radio frequency channels identified in Appendix 18 to the Radio Regulations can be used for port operations, ship movement or public correspondence, and it is unknown what frequencies will be brought into use for traffic systems, we have required that this equipment have the capability to operate on all the frequencies in Appendix 18 to the Radio

[6] Five Notices of Inquiry have been released to date in Docket 20274. Notice of Inquiry, adopted December 10, 1974, 40FR834, FCC 74-1352. Second Notice of Inquiry, adopted June 3, 1975, 40FR26581, FCC 75-652. Third Notice of Inquiry, adopted November 12, 1975, 40FR54867, FCC 75-1252. Fourth Notice of Inquiry, adopted May 18, 1977, 42FR30424, FCC 77-338. Fifth Notice of Inquiry, adopted July 3, 1979, 44FR43343, FCC 79408.

[7] Docket 21089, op. cit.

[8] Docket 20274, op. cit.

Regulations. We anticipate that much existing installed equipment will comply with these proposed regulations. The standards have been developed to permit one VHF installation to satisfy both the bridge-to-bridge requirements and the requirements of the SOLAS Convention.

19. The homing facility required in direction finding equipment by the 1974 SOLAS is applicable to vessels whose keel will be laid after May 25, 1980. The homing facility shall be capable of operating on the 2182 kHz radiotelephone distress frequency. This capability shall permit the vessel to take bearings on 2182 kHz without ambiguity of sense with an arc of 30° of the bow of the ship. IMCO, recognizing that in some cases the required homing capability may not be achieved due to the physical configuration of a vessel, has provided for administrations to exempt individual ships from this requirement. The Commission's proposed rules also provide for granting such an exemption.

20. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303(r). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before April 14, 1980, and reply comments on or before April 24, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of 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.

21. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

22. Regarding questions on matters covered in this document contact Robert C. McIntyre, (202) 632–7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

A. PART 81—STATIONS ON LAND IN THE MARITIME SERVICE AND ALASKA—PUBLIC FIXED

1. Section 81.139 is amended to read as follows:

§ 81.139 Apparatus for generating automatically the radiotelephone alarm signal.

(a) Until January 1, 1983, the device for generating the radiotelephone alarm signal (as defined by § 81.188(b)) by automatic means shall be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress call and message. The device shall comply with the following requirements:

(1) The tolerance of the frequency of each tone shall be plus or minus 1.5 percent;

(2) The tolerance on the duration of each tone shall be plus or minus 50 milliseconds;

(3) The interval between successive tones shall not exceed 50 milliseconds;

(4) The ratio of the aplitude of the stronger tone to that of the weaker shall be within the range 1 to 1.2.

(b) Any device installed on or after January 1, 1983, for generating the radiotelephone alarm signal shall be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress call and message. The device shall comply with the following requirements:

(1) The tolerance of the frequency of each tone shall be plus or minus 1.5 percent;

(2) The tolerance of the duration of each tone shall be plus or minus 10 milliseconds;

(3) The interval between successive tones shall not exceed 4 milliseconds;

(4) The ratio of the amplitude of the stronger tone to that of the weaker shall be within the range of 1 to 1.2;

(5) The output of the device shall be sufficient to modulate the asssociated transmitter in the case of A3 or A3H classes of emission to a depth of at least 70 percent and for a A3J class of emission to within 3dB of the rated peak envelope power of the transmitter;

(6) After activation the device shall automatically generate the radiotelephone alarm signal for a period of not less than 30 seconds and not more than 60 seconds, unless manually interprupted;

(7) After generating the radiotelephone alarm signal or after manual interruption the device should be immediately ready to repeat the signal;

(8) Provisions shall be made such that the transmitter is automatically switched from the stand-by condition to the transmit condition at the start and return to the stand-by condition at the conclusion of the radiotelephone alarm signal.

(c) Except for experimental or trial operation under developmental station authorization, any device for generating the radiotelephone alarm signal by automatic means, which is used or operated by a coast station subject to this part for transmission of that signal, shall be of a type specifically approved by the Commission in respect to its accuracy, reliability, and other relevant characteristics.

2. A new § 81.148 is added to read as follows:

§ 81.148 Digital selective calling equipment.

(a) Digital selective calling equipment operated by stations subject to this part for transmission or reception of signals in accordance with the International Radio Consultative Committee's Recommendation 493–1 shall be of a type specifically approved by the Commission for this purpose. The demodulation portion of the device which decodes the received signal shall be certificated and signal generator portion of the device which modulates the transmitter shall be type accepted.

(b) Digital selective calling equipment shall be designed and operated pursuant to the International Radio Consultative Committee's Recommendation 493–1, "Digital selective-calling system for use in the Maritime Mobile Service," and Recommendation 541, "Operational Procedures for the use of digital selective calling equipment in the Maritime Mobile Service," respectively.

3. A new § 81.196 is added as follows:

§ 81.196 Use of Digital Selective Calling.

Digital selective calling equipment may be installed by any class of coast station to establish initial contact with ship stations and for other communication purposes provided it complies with the technical standards set out in Section 81.148.

§ 81.203 [Amended]

4. Section 81.203(b) is revoked and reserved.

B. PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.142 is revised to read as follows:

§ 83.142 Apparatus for generating automatically the radiotelephone alarm signal.

(a) Any device installed prior to January 1, 1983, for generating the radiotelephone alarm signal (as defined by § 83.245(b)) by automatic means shall be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress call and message. The device shall comply with the following requirements:

(1) The tolerance of the frequency of each tone shall be plus or minus 1.5 percent;

(2) The tolerance on the duration of each tone shall be plus or minus 50 milliseconds;

(3) The interval between successive tones shall not exceed 50 milliseconds;

(4) The ratio of the amplitude of the stronger tone to that of the weaker shall be within the range 1 to 1.2.

(b) Any device installed on or after January 1, 1983, for generating the radiotelephone alarm signal shall be capable of being taken out of operation at any time in order the permit the immediate transmission of a distress call and message. The device shall comply with the following requirements:

(1) The tolerance of the frequency of each tone shall be plus or minus 1.5 percent:

(2) The tolerance of the duration of each tone shall be plus or minus 10 milliseconds;

(3) The interval between successive tones shall not exceed 4 milliseconds;

(4) The ratio of the amplitude of the stonger tone to that of the weaker shall be within the range of 1 to 1.2;

(5) The output of the device should be sufficient to modulate the associated transmitter in the case of A3 or A3H classes of emission to a depth of at least 70 percent, and for a A3J class of emission to within 3dB of the rated peak envelope power of the transmitter;

(6) Means shall be provided to reduce to extinction any light output from the device which is capable of interfering with the safe navigation of the ship;

(7) After activation the device shall automatically generate the radiotelephone alarm signal for a period of not less than 30 seconds and not more than 60 seconds, unless manually interrupted;

(8) After generating the radiotelephone alarm signal or after manual interruption the device should be immediately ready to repeat the signal;

(9) Provisions should be made such that the transmission is automatically swtiched from the stand-by condition to the transmit condition at the start and returned to the stand by condition at the conclusion of the radiotelephone alarm signal.

(c) Except for experimental or trial operation under developmental station authorization, any device for generating the radiotelephone alarm signal by automatic means, which is used or operated by a mobile station subject to this part for transmission of the signal, shall be of a type specifically approved by the Commission in respect to its accuracy, reliability, and other relevant characteristics.

2. A new § 83.148 is added as follows:

§ 83.148 Digital Selective Calling Equipment.

(a) Digital selective calling equipment operated by a station subject to this part for transmission or reception of signals in accordance with the International Radio Consultative Committee's Recommendation 493–1 shall be of a type specifically approved by the Commission for this purpose. The demodulator portion of the device which decodes the received signal shall be certificated and the signal generator portion of the device which modulates the transmitter shall be type accepted.

(b) Digital selective calling equipment installed on compulsorily fitted radiotelephone vessels shall be designed and operated pursuant to the International Radio Consultative Committee's Recommendation 493–1, "Digital selective-calling system for use in the Maritime Mobile Service," and Reommendation 541, "Operational Procedures for the use of digital selective calling equipment in the Maritime Mobile Service," respectively. The equipment shall be capable of operating on one frequency from each of the frequency bands assigned for digital selective calling in § 83.318 of the rules.

(c) Digital selective-calling equipment installed on voluntarily fitted vessels shall be designed and operated pursuant to International Radio Consultative Committee's (CCIR) Recommendation 493–1 and Recommendation 541, except that such equipment need not provide the full system capability set out in these Recommendations.

3. Section 83.201(b) is amended to read as follows:

§ 83.201 Watch required during silence periods.

* * * * *

(b) Each ship station licensed to transmit by telephony on one or more frequencies within the band 1605–3500 kHz shall, during its hours of service for telephony, maintain an efficient watch on the authorized carrier frequency 2182 kHz, whenever such station is not being used for transmission on that frequency or for communication on other frequencies in the band. Such watch shall be maintained at least twice each hour for 3 minutes commencing at x h. 00 and x h. 30, Greenwich mean time using headphones or a loudspeaker. Except for messages of distress, urgency and vital navigational warnings, ship stations shall not transmit on 2182 kHz during the silence periods.

4. In § 83.202, paragraphs (a) and (b) are received to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

(a) Each ship of the United States which is equipped with a radio-telegraph station for compliance with Part II of Title III of the Communications Act shall, while being navigated in the open sea outside of a harbor or port, keep a continuous and efficient watch on 500 kHz by means of radio officers. In lieu thereof, on a cargo ship equipped with a radiotelegraph auto alarm in proper operating condition, an efficient watch on 500 kHz shall be maintained by means of a radio officer for at least 8 hours per day in the aggregate, i.e., for at one-third of each day or portion of each day that the vessel is navigated in the open sea outside of a harbor or port. Ships equipped with a radiotelegraph station shall also maintain a continuous watch when in the open sea outside a harbor or port on the radiotelephone distress frequency 2182 kHz from the prinicpal radio operating position or the room from which the vessel is normally steered. A radiotelephone distress frequency watch receiver having a loudspeaker and radiotelephone auto-alarm facility shall be used to keep the continuous watch on 2182 kHz if such watch is kept from the room which the vessel is normally steered. Except that the radiotelephone auto-alarm facility may only be used when conditions are such that maintenance of the listening watch would interefere with the safe navigaiton of the ship.

(b) Each cargo ship of the United States which is equipped with a radiotelephone station for compliance with Part II of Title III of the Communications Act shall while being navigated in the open sea outside of a harbor or port, keep a continuous and

efficient watch on 2182 kHz in the room from which the vessel is normally steered while at sea, whenever such station is not being used for authorized traffic. Such watch shall be maintained by at least one officer or member of the crew of the vessel who has been designated by the master to do so. The person designated by the master may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. A radiotelephone watch receiver having a loudspeaker and a radiotelephone auto alarm facility shall be used to keep the continuous watch on 2182 kHz. Except that the radiotelephone auto alarm facility may only be used when conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship.

* * * * *

5. In § 83.203, paragraphs (a) and (b) are revised and (c) is added to read as follows:

§ 83.203 Watch required on vessels subject only to the Safety Convention.

(a) Each ship of the United States which is equipped with a radiotelegraph station for compliance with the Safety Convention, but which is not fitted with a radiotelegraph auto alarm in proper operating condition, shall while at sea keep a continuous and efficient watch on 500 kHz by means of radio officers. Ships equipped with a radiotelegraph station shall also maintain a continuous watch when the open sea outside a harbor or port on the radiotelephone distress frequency 2182 kHz from the principal operating position or the room from which the vessel is normally steered. A radiotelephone distress frequency watch receiver having a loudspeaker and a radiotelephone auto alarm shall be used to maintain the continuous watch on 2182 kHz if such watch is kept from the room from which the vessel is normally steered. If fitted with a radiotelegraph auto alarm in proper operating condition, the 500 kHz watch shall be kept while at sea as follows:

(1) Each cargo ship, and each passenger ship carrying or certificated to carry 250 passengers or less, or more than 250 passengers but engaged on a voyage of less than 16 hours duration between two consecutive ports, at least 8 hours watch a day;

(2) Each passenger ship carrying or certificated to carry more than 250 passengers and engaged on a voyage exceeding 16 hours duration between two consecutive ports, at least 16 hours watch a day.

(b) Each cargo ship of the United States which is equipped with a radiotelephone sation for compliance with the Safety Convention shall, while at sea, keep a continuous and efficient watch on 2182 kHz using a radiotelephone watch receiver having a loudspeaker and a radiotelephone auto alarm facility. Except that the radiotelephone auto alarm facility may only be used when conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship.

(c) Each ship of the United States subject to the Safety Convention shall maintain a listening watch for such periods and on such VHF channels as may be requied by foreign administrations operating a system to promote the safety of navigation in areas under its sovereignty. This watch shall be maintained from the principal operating position or the room from which the vessel is normally operated.

6. In § 83.204 a new subparagraph (d) is added as follows:

§ 83.204 Provisions governing radiotelegraph watch.

* * * * *

(d)(1) During the period of this watch, on vessels subject to the Communications Act and the safety Convention on international voyages the radio officer may discontinue such listening during the time when he is handling traffic on other frequencies, or performing other essential radio duties, but only if it is impracticable to listen by split headphones or loudspeaker. The listening watch shall always be maintained by a radio officer using headphones or loudspeaker during the silence period provided for by the Radio Regulations. The term "essential radio duties" in this Regulation includes urgent repairs of:

(i) equipment for radiocommunication used for safety;

(ii) radio navigational equipment by order of the master.

(2) In addition to the provisions of paragraph (d)(1) of this section on ships other than multi-radio officer passenger ships, the radio officer may, when it is impracticable to listen by split headphones or loudspeaker, discontinue listening by order of the master in order to carry out maintenance required to prevent imminent malfunction of:

(i) equipment for radiocommunication used for safety;

(ii) radio navigational equipment;

(iii) other electronic navigational equipment, including its repair;

In this case the listening watch shall be maintained during the silence periods and the ship fitted with a digital selective calling equipment which complies with § 83.148 of the rules.

7. Section 83.318 is revised to read as follows:

§ 83.318 Digital selective calling frequencies.

The frequencies set forth in the table below are available for use by ship stations for calls to coast stations by means of digital selective calling. The associated reply frequencies are also shown.

kHz:[1]	kHz[2]
4187.6	4357
6281.4	6506
8375.2	8718.5
12562.3	13100
12562.8	13100.5
16749.9	17232
16750.4	17232.5
22248	22595
22248.5	22595.5

[1] Ship station transmit to coast.
[2] Ship station receive from coast.

8. Section 83.443(a) is amended to read as follows:

§ 83.443 Radio installation.

(a) The main installation includes a main transmitter, a main receiver, a main power supply, a main antenna system and a radiotelephone distress frequency watch receiver.

* * * * *

9. Section 83.444 is amended by adding a new paragraph (h) to read as follows:

§ 83.444 Requirements of main installation.

* * * * *

(h) The radiotelephone distress frequency watch receiver shall be capable of meeting the requirements of 83.559.

10. Section 83.445(b) is amended to read as follows:

§ 83.445 Requirements of radiotelephone installation.

* * * * *

(b)(1) The radiotelephone receiver shall be capable of efficiently receiving A3 and A3H when connected to the antenna system specified in paragraph (c) of this section and shall be present and capable of accurate and convenient selection of 2182 kHz. The receiver shall additionally:

(i) Have sufficient sensitivity to provide an audio output of 50 milliwatts to a loudspeaker when the input is as low as 50 microvolts. The 50 microvolt input signal shall be modulated 30 percent at 400 Hertz and provide at least a 6 dB signal-to-noise ratio when measured in the rated audio bandwidth.

(ii) Be equipped with one or more loudspeakers capable of being effectively used to maintain a watch on

2182 kHz at the principal operating position or in the room from which the vessel is normally steered.

(2) The radiotelephone distress frequency watch receiver required by § 83.443 may be used in lieu of the receiver specified in paragraph (b)(1) of this Section. If the watch is stood at the place from which the ship is normally steered a radiotelephone distress frequency watch receiver must be used for this purpose.

* * * * *

11. Section 83.446(a)(9) is revised to read as follows:

§ 83.446 Requirements of reserve installation.

* * * * *

(a)(9) The reserve power supply shall be used to energize the reserve installation and the radiotelegraph alarm signal keyer, and provided that the supply has adequate capacity, may be used to energize the following apparatus:

(i) the audible warning apparatus included as a component of an approved radiotelegraph auto alarm;

(ii) the VHF installation required by Subpart BB of this chapter simultaneously with the reserve transmitter in the case of distress urgency and safety communications;

(iii) the VHF installation required by Subpart BB of this chapter alternately with the reserve transmitter. A switching device shall be fitted to ensure alternate operation only in the case of distress, urgency and safety communications;

(iv) the device for generating the radiotelephone alarm signal;

(v) the bridge-to-bridge VHF radiotelephone installation required by Subpart X of this Chapter.

* * * * *

12. Section 83.458 and the heading are amended to read as follows:

§ 83.458 Direction finding and homing equipment.

Each ship of 1,600 gross tons or over which is subject to the requirement set forth in subparagraph (a)(2) of Section 351 of the Communications Act, or which is subject to Regulation 12 of Chapter V of the Safety Convention, whose keel was laid:

(a) *Prior to May 25, 1980,* shall be equipped with efficient radio direction finding apparatus properly adjusted, in operating condition and approved by the Commission.

(b) *On or after May 25, 1980,* shall be equipped with efficient radio direction finding apparatus having a homing capability properly adjusted, in operating condition and approved by the Commission.

13. A new § 83.463a is added as follows:

§ 83.463a Homing facility requirements.

(a) Direction finding equipment used on mandatorily fitted vessels whose keel was laid on or after May 25, 1980, shall additionally have a homing facility which shall:

(1) Be capable of operating on signals of classes of emission A1, A2, A2H, A3 and A3H on any frequency in the band 2167–297 kHz;

(2) Be capable of taking direction finding hearings on the radiotelephone distress frequency 2182 kHz without ambiguity of sense within an arc of 30° on either side of the bow;

(3) Be installed with due regard to CCIR Recommendation 428–2;

(4) Possess a sensitivity, in the absence of interference, sufficient to permit the taking of accurate bearings on a signal having a field strength as low as 25 microvolts per meter;

(5) The accuracy of the homing facility shall be determined in accordance with § 83.463 by comparison of visual or calculated and homing facility bearings. Comparisons shall be made at −30, 0 and +30 degrees relative to the ship's heading to show that the correct sense is indicated.

(b) All reasonable steps shall be taken to ensure the homing facility meets the technical standards delineated in paragraph (a) of this section. In those cases where due to technical difficulties the standards of paragraph (a) of this section cannot be met the Commission may grant to individual licensees an exemption from part or all of the requirements of this section.

14. Section 83.483 is amended to read:

§ 83.483 Radiotelephone installation.

The radiotelephone installation includes: (a) A radiotelephone transmitter;

(b) A receiver as specified in § 83.488(a);

(c) A radiotelephone distress frequency watch receiver specified in § 83.488(b);

(d) A main source of energy;

(e) A reserve source of energy, when required by § 83.491(a);

(f) An antenna system.

15. Section 83.484 is amended by adding a new paragraph (h) to read as follows:

§ 83.484 Radiotelephone transmitter.

* * * * *

(h) An artificial antenna shall be provided to permit weekly checks without causing interference of the automatic device for generating the radiotelephone alarm signal on frequencies other than the radiotelephone distress frequency.

16. Section 83.488 is amended to read as follows:

§ 83.488 Radiotelephone receivers.

(a) The receiver required by § 83.488(b) of this part shall be capable of effective reception of A3H and A3J emissions on the radiotelephone distress frequency. The receiver shall be capable of effective reception of A3H[1] and A3J emissions on 2638 kHz and the receiving frequencies associated with the transmitting frequencies provided pursuant to § 83.484(a).

(b) In addition to the receiver required by paragraph (a) of this section a radiotelephone distress frequency watch receiver approved by the Commission for maintaining the watch required by §§ 83.202 and 83.203 and complying with the technical standards set out in § 83.559 shall be provided. The receiver may be used for automatic detection of distress and safety signals when, in the opinion of the master, maintenance of the watch with a loudspeaker would interfere with the safe navigation of the vessel in accordance with § 83.202.

(c) One or more loudspeakers capable of being effectively used to maintain the required 2182 kHz signals at the principal operating position and at any other place where listening is performed.

(d) The receiver required by paragraph (a) of this section shall:

(1) Have sufficient sensitivity, as defined in paragraph (e) of this section, over the required frequency band on any required reception frequency to effectively operate a loudspeaker when the receiver input is as low as 50 microvolts;

(2) Be capable of efficient operation when energized by the main source of energy, and when energized by the reserve source of energy if a reserve source of energy is required by § 83.491(a);

(3) Be adequately protected by means of suitable devices from excessive currents and voltages which could cause damage to any component thereof;

(4) Be provided with a durable nameplate, mounted on the receiver or made an integral part thereof, showing clearly the name of the receiver manufacturer and the type of model of the receiver.

(e) The sensitivity of a receiver is the strength in microvolts of a signal, modulated 30 percent at 400 cycles per second, required at the receiver input to produce an audio output of 50 milliwatts

[1] A3H shall not be required after January 1, 1982.

to the loudspeaker with a signal-to-audio output of 50 milliwatts to the loudspeaker with a signal-to-noise ratio of at least 6 decibels. Evidence of a manufacturer's rating or a demonstration of the sensitivity of a required receiver computed on this basis shall be furnished upon request of a Commission representative.

17. Section 83.491(c)(2) is amended to read as follows:

§ 83.491 Reserve source of energy.

* * * * *

(c)(2) The reserve source of energy, if of sufficient capacity, may be used to energize the bridge-to-bridge radiotelephone and the VHF radiotelephone installation required by Subpart BB.

18. A new § 83.559 is added as follows:

§ 83.559 Radiotelephone distress frequency watch receiver.

(a) The radiotelephone distress frequency watch receiver shall be type approved by the Commission and is comprised of a receiver, a loudspeaker and a radiotelephone auto alarm (muting) facility. The receiver may be provided with a facility for automatically opening the speaker to the full audio passband for the duration of the silence period.

(b) To be type approved by the Commission the radiotelephone distress frequency watch receiver shall comply with the following requirements:

(1) The receiver shall be capable of being preset to the frequency 2182 kHz and be capable of receiving signals of at least class A2, A2H, A3 and A3H.

(2) The selectivity and audio pass band characteristics of the receiver shall be adequate to permit the satisfactory detection of required voice and tone signals.

(3) The receiver shall have sufficient sensitivity to provide a SINAD ratio of 20dB at the audio output when a 30 microvolt signal A3 or A3H emission modulated 30% at 400 Hz is applied at the receiver input terminals. Refer to § 83.715(d)(4) for measurement procedure.

(4) The audio output of the receiver shall be a minimum of 50 milliwatts.

(5) The receiver shall be provided with an auto alarm facility which causes the receiver to be muted (silence the loudspeaker) unless the radiotelephone alarm signal or the signal preceding a vital navigational warning is received. When the auto alarm facility is activated the receiver shall be effective beyond the range at which speech signals are satisfactory.

(i) The receiver shall be considered muted when the audio output power is reduced to less than 1 milliwatt.

(ii) Tone selecting devices if used to process the 1300 Hz and 2200 Hz tones shall be subject to a ± 1.5 percent tolerance and the response shall not fall below 50 percent of the maximum response for frequencies within 3 percent of the frequency of maximum response.

(iv) The receiver mute shall not be lifted by atmospherics or by strong signals other than the radiotelephone alarm and the vital navigational warning signal.

(v) A double sideband signal, modulated to 70% by the signals specified in paragraph (a)(5)(iv) shall lift the mute in not less than 4 seconds nor more than 6 seconds for input signals producing a SINAD of 10dB at the audio output terminals.

(6) Only those controls listed below should be provided on the exterior of the equipment.

(i) On/off switch with a visual indication that the device is on.

(ii) Volume control to adjust the audio output.

(iii) Control for dimming any light on the equipment.

(iv) Control for switching the muting facility in and out of operation.

(v) Provisions shall be included to manually reset the equipment to the mute position.

(7) Means shall be provided for grounding the case of the equipment but this should not cause any terminal of the source of electrical energy to be grounded.

(8) Provisions should be made to protect the equipment from excessive currents, power supply reversals and voltage variations which could cause damage to any component.

(9) The equipment shall continue to comply with the technical requirements of this section under conditions of sea state, vibration, humidity and changes of temperature normally encountered in a maritime environment.

(10) Be provided with a durable name plate, mounted on the receiver or made an integral part thereof showing clearly the name of the receiver manufacturer and the type of model of the receiver.

(c) The watch receiver shall be tested to the satisfaction of the Commission to determine that it will respond to the required signals while rejecting other signals so as not to cause false alarms. The tests conducted by the Commission will include, but not necessarily be limited to, the following:

(1) Response to radiotelephone alarm signal: A test signal (A2 emission) modulated with the radiotelephone alarm signal to a modulation depth of 70% over any combination of the tolerances specified below shall be applied to the receiver. The test signal applied to the receiver shall be increased until a SINAD of 10dB is obtained. The tests shall be conducted at this input level and higher to ensure that the mute lifts within the required 4 to 6 second period. The alarm signal tolerances are:

(i) Modulating frequency: 1300 ± 20 Hz and 2200 ± 35 Hz;

(ii) Duration of tones: 250 ± 50 milliseconds;

(iii) Time between tones: 0 to 50 milliseconds.

(2) Response to navigational warning signal: A test signal (A2 emission) modulated with the navigational warning signal to a modulation depth of 70% over any combination of the tolerances specified below shall be applied to the receiver. The test signal applied to the receiver shall be increased until a SINAD of 10dB is obtained. The tests shall be conducted at this input and higher to ensure that the mute lifts within the required 4 to 6 second period. The navigational warning signal tolerances are:

(i) Modulating frequency: 2200 Hz±35 Hz;

(ii) Modulation and carrier on: 250±50 milliseconds;

(iii) Modulation and carrier off: 250±50 milliseconds;

(3) Response to actual signals: The receiver shall be tested while connected to an antenna capable of efficiently receiving signals on the frequency 2182 kHz for a period of 20 days to demonstrate that the equipment will not respond to signals other than the required signals. Additionally, during this test valid radiotelephone alarm signals and navigational warning signals shall be introduced on an hourly basis to demonstrate that the equipment is operating in a satisfactory manner.

19. A new Subpart is added to Part 83 as follows:

Subpart BB—VHF Radiotelephone Stations Provided for Compliance With the Radio Provisions of the Safety Convention

Sec.

83.851 VHF radiotelephone station.
83.852 The VHF radiotelephone installation.
83.853 VHF radiotelephone transmitter.
83.854 VHF radiotelephone receiver.
83.855 VHF radiotelephone source of energy.
83.856 VHF radiotelephone antenna system.
83.857 Controls and indicators required for the VHF radiotelephone installations.

Subpart BB—VHF Radiotelephone Stations Provided for Compliance With the Radio Provisions of the Safety Convention

20. A new § 83.851 is added to read as follows:

§ 83.851 VHF radiotelephone station.

(a) The provisions of this subpart are applicable to the VHF radiotelephone station required to be provided on all passenger ships irrespective of size and all cargo ships of 300 gross tons and upwards subject to the Safety Convention. The VHF radiotelephone station so provided comprises a radiotelephone installation and such other equipment as may be necessary for the proper use and operation of such installation.

(b) The VHF radiotelephone station shall be installed so as to insure safe and effective operation of the equipment, and shall be arranged to facilitate repair. Adequate protection shall be provided against the effects of vibration, moisture, and temperature.

(c) The principal operating position of the radiotelephone station shall be in the room from which the vessel is normally steered while at sea.

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(d) The radiotelephone station shall be capable of operating in the simplex mode on the ship station transmitting frequency specified in the following table in the frequency band 156.025 MHz to 157.425 MHz. The station shall also be capable of operating in the semiduplex mode on the two frequency channels specified in the following table.

Channel designators	Transmitting frequencies (MHz)		Channel designators	Transmitting frequencies (MHz)	
	Ship stations	Coast stations		Ship stations	Coast stations
60	156.025	160.625	16	156.800	156.800
01	156.050	160.650	76	Guard Band	
61	156.075	160.675	17	156.850	156.850
02	156.100	160.700	77	156.875	
62	156.125	160.725	18	156.900	161.500
03	156.150	160.750	78	156.925	161.525
63	156.175	160.775	19	156.950	161.550
04	156.200	160.800	79	156.975	161.575
64	156.225	160.825	20	157.000	161.600
05	156.250	160.850	80	157.025	161.625
65	156.275	160.875	21	157.050	156.050 or 161.650
06	156.300				
66	156.325	160.925			
07	156.350	160.950	81	157.075	161.675
67	156.375	156.375	22	157.100	161.700
08	156.400		82	157.125	161.725
68	156.425	156.425	23	157.150	156.150 or 161.750
09	156.450	156.450			
69	156.475	156.475			
10	156.500	156.500	83	157.175	156.175 or 161.775
70	156.525				
11	156.550	156.550			
71	156.575	156.575	24	157.200	161.800
12	156.600	156.600	84	157.225	161.825
72	156.625		25	157.250	161.850
13	156.650	156.650	85	157.275	161.875
73	156.675	156.675	26	157.300	161.900
14	156.700	156.700	86	157.325	161.925
74	156.725	156.725	27	157.350	161.950
15	156.750	156.750	87	157.375	161.975
75	Guard Band		28	157.400	162.000
			88	157.425	162.025

BILLING CODE 6712-01-C

21. A new § 83.852 is added to read as follows:

§ 83.852 The VHF radiotelephone installation.

The VHF radiotelephone installation included:

(a) A VHF radiotelephone transmitter,

(b) A VHF radiotelephone receiver,

(c) A VHF source of energy,

(d) An antenna system.

22. A new § 83.853 is added to read as follows:

§ 83.853 VHF radiotelephone transmitter.

(a) The transmitter shall be capable of effective transmission of F3 emission on 156.3 MHz and 156.8 MHz, and on frequencies which have been specified for use in conjunction with a system which has been established in order to promote safety of navigation. Vessels plying waters under the sovereignty of other administrations are required to effectively communicate on any channel designated by that administration for navigational safety in the bands specified in § 83.851(d).

(b) The transmitter shall be adjusted so that the transmission of speech normally produces peak modulation within the limits of 75 percent and 100 percent.

(c) The transmitter shall have a carrier power of at least 8 watts and not more than 25 watts. Provisions shall be made for reducing the carrier power to a value between 0.1 and 1.0 watts.

(d) The transmitter shall be considered as capable of complying with the power output requirements specified in paragraph (c) of this section when:

(1) The transmitter is capable of being adjusted for efficient use with an actual ship station transmitting antenna meeting the requirements of § 83.857; and

(2) The transmitter has been demonstrated, or is of a type which has been demonstrated, to the satisfaction of the Commission as capable, with normal operating voltages applied, of delivering not less than 8 watts of carrier power into 50 ohms effective resistance over the frequency band specified in § 83.851(d). An individual demonstration of the power output capability of the transmitter, with the radiotelephone installation normally installed on board ship, may be required whenever in the judgement of the Commission this is deemed necessary; and

(3) It is type accepted as required by § 83.139.

23. A new § 83.854 is added to read as follows:

§ 83.854 VHF radiotelephone receiver.

(a) The receiver used for providing the watch for navigational safety required by § 83.203(c) shall be approved by the Commission and capable of effective reception of F3 emission on the frequencies required by § 83.851(d) when connected to the antenna specified in § 83.856.

(b) The receiver shall have a usable sensitivity of 0.5 microvolts when measured in accordance with § 83.715(d)(4).

(c) The selectivity of the receiver shall be such that intelligibility of the wanted signal is not seriously affected by unwanted signals.

(d) The receiver shall deliver adequate audio output power to be heard in the ambient noise level likely to be expected on board ships with a loudspeaker and/or a telephone handset.

(e) In the simplex mode when the transmitter is activated the receiver output shall be muted.

24. Section 83.855 is added to read as follows:

§ 83.855 VHF radiotelephone source of energy.

(a) There shall be readily available for use under normal load conditions, including times of inspection of the ship's VHF radiotelephone station by a Commission representative, a source of energy sufficient to simultaneously energize the VHF transmitter at its required antenna power, and VHF receiver. Under this load condition the potential of the source of energy at the power input terminals of the VHF radiotelephone installation shall not deviate from its rated potential by more than 10 percent on vessels completed on or after March 1, 1957, nor by more than 15 percent on vessels completed before that date.

(b) When the source of energy for the VHF radiotelephone installation consists of or includes batteries, they shall be installed in the upper part of the ship, secured against shifting with motion of the vessel, capable of operating the installation for 6 hours, and accessible with not less than 10 inches head room.

(c) Means shall be provided for adequately charging any rechargeable batteries used in the vessel's VHF radiotelephone installation. There shall be provided a device which, during charging of the batteries, will give a continous indication of the charging current.

(d) The VHF radiotelephone installation may be connected to the reserve source of energy of a compulsorily fitted radiotelephone or radiotelephone installation to pursuant to Subpart R and S of this Part, respectively.

25. Section 83.856 is added to read as follows:

§ 83.856 VHF radiotelephone antenna system.

An antenna shall be providced for radiotelephone installations, in accordance with the applicable requirements of § 83.107, which is as nondirectional and as efficient as is practicable for the reception of radio ground waves. The construction and installation of this antenna shall be such as to insure, insofar as is practicable, proper operation in time of an emergency.

26. Section 83.857 is added to read as follows:

§ 83.857 Controls and indicators required for the VHF radiotelephone installations.

The control and indicators used on equipment forming part of the VHF radiotelephone installation shall comply with the following standards:

(a) Controls should be of such size as to permit normal adjustment to be easily performed. The function and the setting of the controls should be clearly indicated.

(b) Controls should be illuminated as necessary, so as to enable satisfactory operation of the equipment.

(c) Means should be provided to reduce to extinction any light output from the equipment which is capable of interfering with safety of navigation.

(d) An on/off switch should be provided for the entire installation with a visual indication that the installation is switched on.

(e) The equipment should indicate the channel number, as given in the Radio Regulations, to which it is tuned. It should allow the determination of the channel number under all conditions of external lighting. Where practicable Channel 16 should be distincitively marked.

(f) The receiver should be provided with an manual volume control by which the audio output may be varied.

(g) A squelch control should be provided on the exterior of the equipment.

(h) If the external controls are assembled on a separate control unit and more than one such control unit is provided, the one on the bridge should have priority over the others. When there is more than one control unit, indication should be given to the other(s) that the equipment is operational.

[FR Doc. 80-8366 Filed 3-18-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1215

Archaeological Resources Protection Act of 1979; Public Hearings Prior to Publication of Proposed Rulemaking

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Notice of public hearings prior to publication of proposed rulemaking.

SUMMARY: This notice is to provide immediate advice to the general public of scheduled informal hearings. These hearings are designed to provide maximum opportunity for public input and advice to the Department of the Interior, as well as the other major Federal land managers, including the Tennessee Valley Authority and the Departments of Defense and Agriculture, as these agencies prepare uniform regulations to fully implement the provisions of the Archaeological Resources Protection Act of 1979 (Public Law 96–95) regarding the protection and conservation of archeological resources on public and Indian lands.

DATES: Hearings will be held March 22, 1980; March 29, 1980; April 12, 1980; April 19, 1980. See Supplementary Information below for details.

ADDRESSES: Hearings will be held in Denver, Colorado; Phoenix, Arizona; Portland, Oregon; and Knoxville, Tennessee. See Supplementary Information below for details.

FOR FURTHER INFORMATION CONTACT: Charles M. McKinney, Manager, Federal Antiquities Program, Department of the Interior, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C. 20243; 202–343–7105.

SUPPLEMENTARY INFORMATION: The major Federal land managing agencies wish to afford an opportunity for direct public input regarding the various provisions of Public Law 96–95 prior to the completion and publication of proposed rulemaking. It is the intent of the major Federal land managers to seek out the ideas, comments, and suggestions of the public-at-large. In addition, three major special interest groups have been identified upon which rulemaking may have a direct impact: (1) the Native American community, (2) the professional archeological community, and (3) collectors and treasure hunters. Accordingly, four hearings have been scheduled as follows:

Denver, Colorado—March 22, 1980. Denver Service Center, Bldg. 56, Auditorium, West 6th and Kipling. Host: Water and Power Resources Service, Department of the Interior

Phoenix, Arizona—March 29, 1980. Los Olivos Hotel, 202 East McDowell Road (Fiesta Room). Host: Bureau of Land Management, Department of the Interior

Portland, Oregon—April 12, 1980. Flamingo Motel, 9727 N.E. Sandy Boulevard. Host: Forest Service, Department of Agriculture

Knoxville, Tenn.—April 19, 1980. TVA Office Complex, West Tower Lobby Auditorium, 400 Commerce Avenue. Host: Tennessee Valley Authority

All four hearings are scheduled on a Saturday in order to provide an opportunity for maximum public participation. All hearings are scheduled to begin at 10 a.m. and conclude by 4 p.m. Upon completion of the above hearings, proposed rulemaking is anticipated for publication in the **Federal Register** before May 15, 1980. Following the date of publication, a 90 day commenting period will follow. During the commenting period additional hearings are tentatively planned for Anchorage, Alaska; Los Angeles, California; Albuquerque, New Mexico; and Chicago, Illinois and/or other localities, pending public needs. Host bureaus of the Department of the Interior, Defense, Agriculture, and the Tennessee Valley Authority will provide local arrangements including meeting space for a minimum of 100 people and recording facilities at each hearing. Charles M. McKinney, Manager, Federal Antiquities Program, will serve as principal hearings officer and a representative from each host bureau or Department will serve as co-hearing officer for each hearing.

In addition to providing an opportunity for the general public to make direct input at the hearings, written comments are invited. Although any section of the Act may be discussed either in person or in writing, certain issues regarded as critical by the above mentioned interest groups should be addressed in a public forum. For the purposes of the hearings, the following issues have been identified to be of utmost interest and in need of discussion:

1. What mechanisms might be implemented to assure that appropriate Native American groups and/or leaders are consulted when an application for a permit may result in harm to or destruction of a religious or cultural site?

2. Will the regulations provide guidance to the public regarding the collection of coins and bullets, as referenced in Section 12(b)?

3. What administrative mechanisms, if any, should be implemented for appealing denials of permits and resolving other differences between applicants and Federal field personnel?

4. How will the regulations implement congressional intent regarding the collection of bottles?

5. Notwithstanding clarification in the legislative history, should the regulations address the use or non-use of subsurface sensing devices on public and Indian lands?

6. While the Outer Continental Shelf is delimited from the provisions of this statute, will regulations address the protection of historic shipwrecks located within the boundaries of Federal reserve areas?

7. How will regulations address the issues surrounding graves and human skeletal materials located on public and Indian lands relative to authorized scholarly studies and unauthorized disturbance and vandalism?

8. What are the possibilities for incorporating a public awareness program in conjunction with the civil penalties of this Act?

9. What is the meaning of Section 6(g) and 7(a) relative to "arrowhead" surface collection considering the legislative history of October 17, 1979?

The above questions are examples of those which have been asked by the general public since the enactment of Pub. L. 96–95 on October 31, 1979. It is anticipated that through hearings, in-depth discussions will pursue these questions and several more regarded as critical to specific segments of the public. This list is not intended to serve as an agenda nor necessarily to be discussed at each hearing in its entirety. It is included herein only as an indication of several issues for which public concern does exist and because each may be addressed during the rulemaking process. The Department of the Interior and the other major Federal land managers wish to act with reasonable haste in developing proposed regulations for publication in the **Federal Register** to fully implement the provisions of the Act, however, neither proposed nor final regulations will be published prior to the above mentioned hearings.

As provided in Section 6 of the Act, the criminal prohibitions became operational upon enactment. Prosecutions for criminal violations of the Act are being actively pursued at this time. Cases are being prosecuted on the basis of the statute itself. Accordingly, the time involved in promulgating uniform regulations under this Act should not prevent or otherwise interfere with the implementation of criminal sanctions.

Dated: March 18, 1980.

Robert L. Herbst,

Assistant Secretary of the Interior.

[FR Doc. 80–8671 Filed 3–18–80; 12:13 pm]

BILLING CODE 4310–03–M

Notices

Federal Register
Vol. 45, No. 55
Wednesday, March 19, 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.

CIVIL AERONAUTICS BOARD

[Docket No. 37851; Order 80-3-63]

Aerolineas Argentinas, et al.; Prior Approval of All Charter Flights Between United States and Their Home Country

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80-3-63, Docket 37851.

SUMMARY: The Board proposes to issue an order requiring the following foreign ar carriers to obtain prior approval of all charter flights between the United States and their home country: Aerolineas Argentinas; "VARIG," S.A. (Viacao Aerea Rio-Grandense); Aerocosta, S.A.; Aerolineas Territoriales de Colombia Ltda, "Aerotal"; Aerovias Colombianas Limitada (ARCA); Aerovias Condor de Colombia, S.A.; Aerovias Nacionales de Colombia, S.A. (AVIANCA); Sociedad Aeronautica de Medellin Consolidada, S.A. (SAM); Iran National Airlines Corporation (Iran Air); Aerlinte Eireann Teoranta; Japan Air Lines Company, Ltd.; Aeronaves del Peru, S.A.; AeroPeru (Empresa de Transportes Aero del Peru); Compania de Aviacion "Faucett", S.A.; Air Manila, Inc.; Philippine Air Lines, Inc.; General Department of International Air Service (Aeroflot Soviet Airlines); Transportes Aereos de Carga, S.A. (Transcarga); Venezolana International de Aviacion, S.A. (VIASA).

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this requirement should be imposed as described in the order cited above shall no later than April 8, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 37851, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the carrier concerned, the Departments of State and Transportation. Copies of the objection should also be sent to the Ambassadors of the countries affected by the objections.

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 Board may enter an order which would make final the Board's tentative findings and conclusions and require the noted foreign air carriers to obtain prior approval of all charter flights between the United States and their home countries.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION, CONTACT: Regulatory Affairs Division (202) 673-5878, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C.

By the Civil Aeronautics Board: March 13, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-8331 Filed 3-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 20244]

Aloha Airlines, Inc. Subsidy Mail Rates; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 10, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., March 13, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80-8332 Filed 3-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37209; Order 80-3-75]

TTI; Foreign Indirect Air Carrier Permit

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order To Show Cause: Order 80-3-75.

SUMMARY: The Board proposes to approve the following application:

Applicant: TTI Travel, Inc.
Docket: 37209.
Application Date: December 4, 1979.
Authority Sought: Permit to operate as a foreign indirect air carrier of persons and their accompanying baggage.

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 April 9, 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, and the Ambassador of Spain in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other 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 37209, Docket Section, Civil Aeronatics Board, Washington, D.C. 20428.
TTI Travel, Inc., c/o Howard S. Boros, Boros & Garofalo, P.C., Suite 460, Bender Building, 1120 Connecticut Avenue, NW., Washington, D.C. 20036.

To get a copy of the complete order, request it from the D.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Bruce W. Solow, Legal Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5203.

By the Civil Aeronautics Board: March 14, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-8333 Filed 3-18-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping: Certain Steel Wire Nails From the Republic of Korea

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of extension of period for final determination.

SUMMARY: This notice is to advise the public that the Commerce Department has extended by sixty days the period within which to make a final determination as to whether certain steel wire nails from Korea are, or are likely, to be sold in the United States at less than fair value.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 566–5492.

SUPPLEMENTARY INFORMATION: On December 31, 1979, an antidumping investigation involving certain steel wire nails from the Republic of Korea was in progress under the Antidumping Act, 1921 (19 U.S.C. 160 *et seq.*). An "Antidumping Processing Notice" (44 FR 23621) and a notice of "Tentative Determination of Sales at Not Less Than Fair Value and Tentative Discontinuance of Antidumping Investigation" (44 FR 61722) had been published in the Federal Register of April 20, 1979 and October 26, 1979 respectively.

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 144) ("The 1979 Act") became effective. Section 106(a) of the 1979 Act (93 Stat. 193) repealed the Antidumping Act, 1921. Section 102(b) of the 1979 Act (93 Stat. 189) contains transition rules regarding antidumping investigations under the 1921 Act which were pending on the effective date of the 1979 Act. Pursuant to section 102(b)(2), the tentative determination made on October 26, 1979, is being treated as though it were a preliminary determination under section 733 of the Tariff Act of 1930, as amended ("the 1930 Act"), made on January 1, 1980. Section 735(a) of the 1930 Act (93 Stat. 169, 19 U.S.C. 1673d(a)) directs that within 75 days after the date of a preliminary determination, a final determination shall be made of whether the merchandise subject to investigation is being, or is likely to be, sold in the United States at less than its fair value. The last day on which a final determination ordinarily could be made in this investigation is March 17, 1980.

However, the Department of Commerce hereby acts under section 735(a)(2) of the 1930 Act (93 Stat. 170, 19 U.S.C. 1673d(a)(2)) to extend the period within which to make the final determination. This investigation had been self-initiated by the Department of the Treasury and, therefore, was not based on a petition filed by a domestic interested party. Nonetheless, representatives of the domestic industry are participating actively in the case and have requested an extension of time in this case. For the purpose of this provision, the Commerce Department has determined that the administering authority may be considered to be the petitioner where the investigation involved was self-initiated by the then responsible government authority. Consequently, the final determination in this investigation will be made no later than on May 16, 1980.

John Greenwald,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 80–8305 Filed 3–18–80; 8:45 am]

BILLING CODE 3510–22–M

National Bureau of Standards

I/O Channel Level Interface Standards; Federal Information Processing Standards; Proposed Waiver Revision

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 USC 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (The Secretary) is authorized to establish uniform automatic data processing standards. On February 16, 1979, notice was given in the Federal Register (44 FR 10098–10101) announcing that the Secretary had approved three input/output (I/O) channel level interface standards as Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated FIPS Publication (PUB) 60, FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the Federal Register (44 FR 50078–50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUBL 63. These standards were the subject of corrections and revisions announced in the Federal Register on August 27, 1979 (44 FR 50079–50080), August 31, 1979 (44 FR 51294) and December 3, 1979 (44 FR 69317).

It is proposed that the waiver provision of each of the above cited FIPS be revised so as to provide for faster and more efficient processing of waiver requests within the Federal Government, while at the same time providing an open and complete public record of the processing of each approved waiver request.

It is proposed that the section headed *"Waivers"* of each of the cited standards be replaced in its entirety by the following:

Waivers. Heads of agencies, or their designees who have been formally delegated authority to make agency waiver determinations (in either case, hereinafter termed approval officers), may waive the provisions of this standard, so as to acquire ADP equipment that does not conform to this standard, following agency review of a waiver request which has been documented according to the procedures and criteria set forth below:

1. A waiver request must originate within an agency and shall be forwarded to that agency's approval officer. Each such waiver request shall include: (1) a description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested, and (4) a summary of the waiver request suitable for publication in the Federal Register as required in paragraph 2 below.

2. Except as provided in paragraph 5 below, the summary of the waiver request formulated under paragraph 1 shall be published by the agency in the Federal Register for public comment, allowing a comment period of no less than twenty days. The Federal Register announcement must identify the organizational unit within the agency for which the planned equipment is intended, and that unit's location; the name and title of the approval officer, and the name, title, and telephone number of the agency contact for further information.

3. The approval officer shall review the waiver request, all comments received in response to the Federal Register announcement, and any

analyses conducted to assist the approval officer in reaching a determination concerning the waiver request. A waiver may be granted if, in the judgment of the approval officer based on all available information, a major adverse economic or operational impact would occur through conformance with this standard. Full consideration shall be given to the Government's stated intent in employing this standard, namely, to reduce the cost of satisfying the Government's automatic data processing requirements through increasing its alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement. Attention shall also be given to potential improved reutilization of system components through conformance with this standard. A detailed written decision rationale document shall be prepared and signed by the approval officer in those cases where a waiver is approved. Except as provided under paragraph 5 below, whether or not a waiver is approved, the agency will publish promptly a notice of its decision relative to the previously published waiver request in the Federal Register. Where a waiver has been approved, the notice shall state that a detailed decision rationale document is available from the General Services Administration (GSA).

4. Except as provided under paragraph 5 below, for each waiver request for which a waiver is granted, all comments received in response to the related Federal Register announcement, all information and supporting analyses taken into account by the approval officer, and the decision rationale document must be contained in a record forwarded promptly following the waiver decision to the Administrator, GSA, Washington, D.C. 20405. The Administrator of GSA shall make each such record available for public inspection and copying for a period of not less than five years.

5. Where an appropriate agency official determines that the above-required public comment and public record review would result in public release of information which is exempt from mandatory disclosure under 5 USC 552(b)(1), the publication requirements called for under paragraphs 2 and 3 and the requirement under paragraph 4 to forward the record to GSA for public review may be omitted by the agency. In each such case where a waiver is granted, however, a complete record of all aspects of the processing of the waiver request must be maintained by the agency for a period of not less than five years, for possible internal Government review.

Written comments on this proposed revision to each of the above cited standards should be submitted to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: Proposed Interface Standards Waiver Revision. Comments to be considered must be received on or before May 19, 1980.

Persons desiring any further information about this proposed revision of the interface standards waiver provision may contact Mr. Thomas N. Pyke, Jr., Director, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234; (301) 921–3436.

Dated: March 14, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-8350 Filed 3-18-80; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Newly Established Specific Ceilings for Certain Cotton, Wool and Manmade Fiber Apparel Products From Hong Kong

March 14, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing specific levels of restraint for the following categories of cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1980:

Category	Description	Level of restraint
337	Cotton playsuits	643,205 dozen.
342	Cotton skirts	366,713 dozen.
345	Cotton sweaters	288,101 dozen.
438	Wool shirts and blouses.	739,304 dozen.
635	Women's, girls' and infants man-made fiber coats.	602,617 dozen.
648	Women's, girls' and infants man-made fiber trousers.	922,735 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172))

SUMMARY: The Government of Hong Kong has informed the Government of the United States, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 8, 1977, as amended, between the two governments, that it is converting Categories 337, 342, 345, 438, 635 and 648 into specific limits during the agreement year which began on January 1, 1980 and extends through December 31, 1980. In 1979, these categories were subject only to group levels and the EA call mechanism.

The purpose of this notice is to advise the public if this change in the status of the cited categories under the terms of the amended bilateral agreement.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Foote, Assistant Director, International Agreements and Monitoring Division, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–4212)

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-8308 Filed 3-18-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980 Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1980 a commodity to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: March 19, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On January 15, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (45 FR 2880) of proposed addition to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1980:

Class 7350

Cup, Plastic

7350-00-721-9003
7350-00-082-5741
7350-00-926-1661
7350-00-145-6126
7350-00-761-7467
7350-00-914-5089
7350-00-914-5088
7350-01-145-6127

C. W. Fletcher,

Executive Director.

[FR Doc. 80-8314 Filed 3-18-80; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 80-2]

Imperial Carpet Mills, Inc.; Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a complaint under the Flammable Fabrics Act.

SUMMARY: Under provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues under the Flammable Fabrics Act. Printed below is a Complaint in the matter of Imperial Carpet Mills, Inc., and Murray Sobel, individually and as an officer of the corporation issued.

SUPPLEMENTARY INFORMATION:

Nature of Proceedings

The Consumer Product Safety Commission (hereinafter, the "Commission") has reason to believe that Imperial Carpet Mills, Inc., a corporation; and Murray Sobel, individually and as an officer of the corporation; (hereinafter, collectively, "Respondents"), are subject to, and have violated, provisions of the Flammable Fabrics Act, as amended (hereinafter, the "FFA") 15 U.S.C. 1191 *et seq.;* the Federal Trade Commission Act, as amended (hereinafter the "FTCA") 15 U.S.C. 41 *et seq.;* and the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) (hereinafter the "Standards") 16 CFR Part 1630, Subpart A.

It appears to the Commission, from the factual information available to staff, that it is in the public interest to issue this Complaint to commence an Adjudicative Proceeding in accordance with the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR Part 1025. Therefore, by virtue of the Consumer Product Safety Act, as amended, 15 U.S.C. 2051, 2079(b), the Commission, pursuant to Section 5 of the FFA, 15 U.S.C. 1194, and Section 5 of the FTCA, 15 U.S.C. 45, and in accordance with the Commission's Rules of Practice for Adjudicative Proceedings, hereby issues this Complaint, and states its charges as follows:

CHARGES: 1. Respondent Imperial Carpet Mills, Inc., is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business located at U.S. Highway 41 North, Cartersville, Georgia 30120.

2. Respondent Murray Sobel is an officer of respondent Imperial Carpet Mills, Inc., and in the capacity of President is responsible for the acts, practices, and policies of the corporation.

3. At the times the infractions and violations charged herein occurred, Respondents were engaged in the manufacture and sale of "carpet" "in commerce" as these terms are defined in the Standard, 16 CFR 1630.1(c), and in Section 2(b) of the FFA, 15 U.S.C. 1191(b), respectively.

4. Carpet is a "product" and an "interior furnishing" consisting of "fabric" and "related materials" as those terms are defined in Sections 2 (h), (e), (f), and (g) of the FFA, 15 U.S.C. 1191 (h), (e), (f), and (g), respectively. Carpet is therefore, subject to the FFA and to the Standard and Rules and Regulations promulgated pursuant to that Act.

5. Respondents have engaged in the manufacture for sale, sale or offering for sale in commerce, and the introduction, delivery for introduction, trnasportation and causing to be transported in commerce, and the sale or delivery after sale or shipment in commerce of carpets—styles "Super Shag," "Touchdown," and "Touchdown T," made with nylon face yarns, polypropylene primary backings, and foam secondary backings, which fail to meet the acceptance criteria of the Standard, as defined and set forth in 16 CFR 1630.1(a), 1930.3(c) and 1630.4(f), respectively in violation of Section 3(a) of the FFA, 15 U.S.C. 1192(a).

6. Pursuant to Section 3(a) of the FFA, 15 U.S.C. 1192(a), the aforesaid acts and practices of Respondents are unlawful and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the FTCA.

Relief Requested in the Public Interest by Staff

The Commission staff believes that the public interest requires (1) a finding that Respondents have engaged in the violative acts and practices enumerated in paragraphs 5 and 6 of the charges in this Complaint, and (2) the issuance of the Cease and Desist Order set forth below. If, however, the Commission concludes from the record in this Adjudicative Proceeding that this Order would not be appropriate or adequate to fully protect the consuming public, the Commission may order such other relief as it deems necessary and appropriate.

Order I. *It is ordered,* That Imperial Carpet Mills, Inc. (hereinafter, the "Corporation") and Murray Sobel (hereinafter, "Sobel") and their agents, representatives, employees and successors and assigns, directly or through any corporation, subsidiary, division or other instrumentality, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related materials which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended (hereinafter, the "FFA"), 15 U.S.C. 1191 *et seq.,* which product, fabric, or related material fails to conform to the requirements of the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70), 16 CFR Part 1630.

II. *It is further ordered,* That the Corporation and Sobel, and their agents, representatives, employees and successors and assigns, directly or through any corporation, subsidiary, division or other instrumentality, shall conform to all provisions of the FFA, and the standards, rules, and regulations issued thereunder, in the manufacture for sale, sale or offering for sale, in commerce, or importation into the United States, or introduction, delivery for introduction, transportation, or causing to be transported in commerce, or the sale or delivery after sale or shipment in commerce, of any product, fabric or related material subject to the Standard.

III. *It is further ordered,* That the Corporation and Sobel shall either process all carpet or rugs in inventory including the said styles "Super Shag,"

"Touchdown," and "Touchdown T" so as to bring them into conformance with the applicable standard of flammability under the Act, as amended, or destroy the carpet or rugs.

IV. *It is further ordered,* That the Corporation and Sobel shall, within 15 days after service upon them of this Order, file with the Commission a special report in writing setting forth the manner in which they intend to comply with this Order. They shall submit with their report a complete description of each style of carpet or rug currently in inventory or production.

V. *It is further ordered,* That for a period of 10 years from the date of this Order the Corporation and Sobel shall notify the Commission at least 30 days prior to any proposed change in the Corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the Corporation which may affect compliance obligations arising out of this Order.

VI. *It is further ordered,* That for a period of 10 years from the date of this Order that Sobel promptly shall notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business and shall submit to the Commission a statement as to the nature of the business or employment in which he is newly engaged as well as a description of his duties and responsibilities in the new business.

VII. *It is further ordered,* That the Corporation shall distribute a copy of this Order to each and all of its operating divisions.

VIII. *It is further ordered,* That the Corporation and Sobel (1) shall permit the Commission, in accordance with law, to conduct inspections of the Corporation, to examine the Corporation's books, records, and accounts relating to the manufacture, sale, and distribution of carpet, and to collect samples of carpet manufactured and distributed by the Corporation; and (2) shall upon the request of the Commission, in accordance with law, submit written reports, verified copies of the Corporation's books, records and accounts, and samples of carpet manufactured and distributed by the Corporation, to enable the Commission to determine their compliance with this Order.

Wherefore, the premises considered, the Commission, hereby issues this compliant on this 7th day of March 1980.

By the Commission.

Dated: March 14, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-8309 Filed 3-18-80; 8:45 am]

BILLING CODE 6355-01-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Meeting

AUTHORITY OF COMMITTEE: The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

TIME AND PLACE OF MEETING: The Pay Advisory Committee will meet on April 2, 1980, at 2 p.m. in room 2008 of the New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506.

PURPOSE OF THE MEETING: The purpose of the meeting will be to continue unfinished business from the Committee's earlier meetings.

PUBLIC PARTICIPATION: The meeting of the Pay Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

ADDITIONAL INFORMATION: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: March 13, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-8347 Filed 3-14-80; 4:19 pm]

BILLING CODE 3175-01-M

Price Advisory Committee; Meeting

AUTHORITY OF COMMITTEE: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

TIME AND PLACE OF MEETING: The Price Advisory Committee will meet on April 9, 1980, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506.

PURPOSE OF THE MEETING: The purpose of the meeting will be to continue unfinished business from the Committee's earlier meetings.

PUBLIC PARTICIPATION: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

ADDITIONAL INFORMATION: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: March 14, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-8348 Filed 3-14-80; 4:19 pm]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Altered Record System

AGENCY: Department of the Air Force.

ACTION: Notice of an altered system of records.

SUMMARY: The Air Force is publishing for public comment an altered system of records subject to the Privacy Act of 1974.

DATES: The sustem shall be altered as proposed without further notice in 30 days from the date of this publication (April 18, 1980) unless comments are received on or before April 18, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the system manager indentified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAAD(S), The Pentagon, Washington, DC 20330, telephone 202-694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc. 79-37052 (44 FR 74145) December 17, 1979

FR Doc. 80-2008 (45 FR 5515) January 23, 1980

FR Doc. 80-6232 (45 FR 13181) February 28, 1980

The Department of the Air Force has submitted an altered system report dated February 8, 1980, for this altered record system under the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of an altered report and in accordance with Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

O. J. Williford,

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

March 11, 1980.

Following the identification code of the record system and the specific changes made therein, the complete revised record system, as altered, is published in its entirety.

F17720 OEACYVA

System name:

Travel Records (44 FR 74361, December 17, 1979)

Changes:

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Delete the phrase "but are not limited to" throughout the entire section where it appears. Change "Civil Service Commission" to read "Office of Personnel Management."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Add to the end ", and at Aeronautical Systems Division (AFSC), Wright-Patterson AFB, OH, on computer magnetic tape, disks and printouts."

F17720 OEACYVA

SYSTEM NAME:

Travel Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Accounting and finance offices at Air Force bases the addresses of which are listed in the Department of Defense directory in the appendix to the Air Force system notice; and at the Denver Federal Archives and Records Center, Denver Federal Center, Bldg. 48, Denver, CO, 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel. Air Force civilian employees and former employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy nominees/applicants/cadets. Senior and Junior Air Force Reserve Officers. Dependents of military personnel. Foreign Nationals residing in the United States. Exchange Officers. Any other individual in receipt of competent travel orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents include but are not limited to travel vouchers and subvouchers; travel allowance payment lists; travel voucher or subvoucher continuation sheets; vouchers and claims for dependent travel and dislocation or trailer allowance; certificate of government quarters and mess; multiple travel payments list; travel payment card; requests for fiscal information concerning transportation requests, bills of lading, and meal tickets; public vouchers for fees and mileage of witnesses; claims for reimbursement for expenditures on official business; claims for fees and mileage of witness; certifications for travel under classified orders; travel card envelopes; statements of adverse effect-utilization of government facilities; and correspondence relating to the above subject matter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC 404-412; 5 USC 2105, 2106, 5561, 5564, 5701-5708, 5721-5730, and 5742.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purposes for which information in the system is collected include but are not limited to paying travel entitlements and supporting the payment of travel entitlements to military and civilian personnel. Uses made of the records by the paying Accounting and Finance Office, other Air Force and Dept. of Defense components include but are not limited to the following: payment of advances; payment of per diem at temporary duty stations; settlement payments upon completion of travel; payment of mileage upon separation or release from active duty; consolidation of payments; payment of dependents: travel; payment of dislocation or trailer allowance; to support a traveler's entitlement to a specific rate of per diem; to list multiple payments for travel and temporary duty performed under like conditions and circumstances; as a control record of all travel payments made to an individual; to query the United States Army Finance and Accounting Center for information contained on transportation requests, bills of lading, and meal tickets; payment of fees and allowances to civilian witnesses who are not U.S. Government employees; payment of expenses incurred within and around duty stations; supports the travel voucher in lieu of classified orders; updates leave records. Other users and specific uses made by them include but are not limited to Accounting and Finance Officers, who use travel records to pay travel entitlements to military and civilian personnel who perform official travel; traffic management Officers, who use travel records to support the issuance of transportation requests and to support the movement of household goods or house trailer; Internal Revenue Service, which receives and records information concerning the payment of travel allowances which are subject to federal income tax; the Civil Service Commission which uses the records for personnel management functions; General Accounting Office (GAO), which uses travel records for auditing activities and for the settlement of questionable travel claims; Office of Special Investigation, United States Air Force (OSI), which uses travel records in the investigation of suspected fraud cases; Air Force Audit Agency (AFAA), which uses travel records in performing routine audit activities; Department of Justice (disclosures for criminal prosecution, civil litigation or investigation); and disclosures made pursuant to the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, visible file binders/cabinets, card files, and at Aeronautical Systems Division (AFSC), Wright-Patterson AFB, OH, on computer magnetic tape, disks and printouts.

RETRIEVABILITY:

Filed by Name, Social Security Number (SSN) or by other identification number or system identifier.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, vaults, and locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening and by visitor registers, and by computer software in the case of machine readable records.

RETENTION AND DISPOSAL:

The original voucher and related supporting documents are stored at the Air Force Accounting and Finance Center, Denver, CO, for 18 months and then moved to the Denver Federal Archives and Records Center for 4 years and 9 months after which they are sold to salvage companies for destruction by shredding. Copies of the original voucher and related supporting documents are maintained by field accounting and finance offices for 3 years and then destroyed by burning, shredding, tearing, pulping or macerating. Computer tapes are destroyed by overwriting 90 days after member or employee is transferred.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force (USAF). At base level the system manager is the local Accounting and Finance Officer.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtaind from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320–7553. Requester should be able to provide sufficient proof of identity, such as name, social security number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320–7553. Requester should be able to provide sufficient proof of identity, such as name, social security number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information is acquired from but not limited to the individual traveler; related voucher documents such as those described above in the description of categories of records; Office of the Judge Advocate; the Comptroller; General Accounting Office; Congress; Accounting and Finance Officers; Traffic Management Officers; Consolidated Base Personnel Officers; the Air Force Accounting and Finance Center; and other Air Force and Department of Defense components.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-8307 Filed 3-18-80; 8:45 am]
BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Chief of Engineers, Environmental Advisory Board; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the next meeting of the Environmental Advisory Board (EAB) of the Chief of Engineers will be held April 9–11, 1980 in Room 415 of Mahan Hall (Bldg. 752) on Thayer Road, U. S. Military Academy, West Point, New York. The theme of the meeting will be "The Corps of Engineers Cultural Resource Program." Time and subjects of each session follow:

April 9—Wednesday—A.M. Session

0815—Meeting convened.
0815–1115—OCE response to February 6–8, EAB report.

P.M. Session

1230–1555—Command briefing on environmental and cultural concerns at USMA.
1555–1730—Inspection of historical sites, West Point.

April 10—Thursday—A.M. Session

0800–1200—Corps of Engineers cultural resources program and policy.

P.M. Session

1330–1700—Case studies on Corps cultural resource activity.
1900–2100—Current Activities.

April 11—Friday—A.M. Session

0815–1130—Workshop for EAB members.

P.M. Session

1300–1500—EAB report to COE, COE response.
1500—Meeting adjourned.

Meeting room has limited seating capacity. Written statements, to be made part of the minutes may be submitted prior to or up to 10 days following the meeting. Persons planning to attend should contact LTC George F. Boone, Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, Telephone: 202–272–0103.

Dated: March 14, 1980.

Marian G. Spittle,
Army Liaison Officer With the Federal Register.

[FR Doc. 80-8323 Filed 3-18-80; 8:45 am]
BILLING CODE 3710-08-M

Department of the Navy

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (1976)), notice is hereby given that the Naval Research Advisory Committee will meet on April 8–9, 1980, at the Postgraduate School, Monterey, California. The meeting will consist of four sessions. The first session will commence at 8:30 a.m. and terminate at 12:30 p.m. on April 8, 1980. The second session will commence at 1:30 p.m. and terminate at 5:00 p.m. on April 8, 1980. The third session will commence at 8:00 a.m. and terminate at 12:00 noon on April 9, 1980. Finally, the fourth session will commence at 1:00 p.m. on April 9, 1980, and continue to completion. The first, third, and fourth sessions of the meeting will be held in Room 221, Ingersoll Hall Naval Postgraduate School. The second session will commence in Room 221, Ingersoll Hall, and terminate in various tours of the Naval Postgraduate School. The second session in the afternoon of April 8, 1980, will be open to the public. The three remaining sessions of the meeting will be closed to the public.

The purpose of the meeting is to discuss the research curriculum offered at the Naval Postgraduate School as well as a review of the status of all ongoing Committee studies and discussion/formulation of an agenda for the 1980 Summer Study. The open session will generally cover the mission of the Naval Postgraduate School. The remaining sessions of the meeting will consist of classified information that is

specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires that the first, third, and fourth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact:

Captain Jesse B. Morris, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217, telephone no. (202) 696–4484.

Dated: March 13, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 80-8245 Filed 3-18-80; 8:45 am]

BILLING CODE 3810-71-M

Academic Advisory Board to the Superintendent, U.S. Naval Academy; a Subcommittee of the Secretary of the Navy's Advisory Board on Education and Training; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (1976)), notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy, will meet on May 5, 1980, in the Annapolis Room, Nimitz Library, United States Naval Academy, Annapolis, Maryland. The meeting will commence at 8:30 a.m. and terminate at 3:00 p.m.

The purpose of the meeting is to advise and assist the Superintendent of the Naval Academy concerning the education of midshipmen. To accomplish this objective, the Board will review academic policies and practices of the Naval Academy and will submit their proposals to the Superintendent to aid him in improving educational standards and in solving Academy problems.

For further information concerning this meeting contact: Major Donald W. Nelson, USAF, Military Secretary to the Academic Advisory Board, Divison of English and History, United States Naval Academy, Annapolis, Maryland 21402, Telephone No. (301) 267–2170.

Dated: March 11, 1980.

P. B. Walker.

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-8324 Filed 3-18-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Committee will be held as follows:

Thursday & Friday, May 1–2, 1980, Pomponio Plaza, Rosslyn, Virginia

The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in section 552b(c)(1). Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on special signals.

O. J. Williford,

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

March 13, 1980.

[FR Doc. 80-8352 Filed 3-18-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Committee will be held as follows:

Thursday & Friday, May 22–23, 1980, Pomponio Plaza, Rosslyn, Virginia

The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on special signals.

O. J. Williford,

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

March 13, 1980.

[FR Doc. 80-8351 Filed 3-18-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

San Juan Islands Area Service, Proposed Transmission Cable; Intent To Prepare a Supplement to a Final Environmental Impact Statement

Bonneville Power Administration (BPA) hereby gives public notice of its intent to prepare and circulate a draft facility location supplement to an environmental impact statement (EIS).

BPA's EIS will address the location, construction, and operation of a proposed 115-kV submarine cable and associated facilities to provide support for the existing transmission system in the San Juan Islands service area of Washington State. This draft facility location supplement is supplemental to the final planning supplement issued in April 1978 as part of BPA's Fiscal Year 1979 Final Program EIS (DOE/EIS–0005). The final planning supplement stated that a 34.5-kV submarine cable would be used in the proposed plan. Subsequent studies have shown that for a relatively small additional cost, a 115-kV cable could be installed. A 115-kV cable would provide a better long-term solution for service to the San Juan Islands. Both alternatives to be analyzed in the intended draft facility location supplement include 115-kV submarine cables.

The proposed route would cross Rosario Strait from Sunset Beach on Fidalgo Island to Decatur Island, and Lopez Sound from Decatur Island to Lopez Island. The proposed construction, therefore, would necessarily be located within coastal floodplains.

Tentatively, we plan to file the draft facility location supplement EIS with the Environmental Protection Agency (EPA) in April 1980.

Although the completed draft facility location supplement will be subject to extensive public and agency review, BPA is interested in receiving input to the EIS preparation process so that concerns identified now can be fully considered in development of the final location supplement. Any suggestions or questions regarding the EIS should be directed to the Environmental Manager, Bonneville Power Administration, U.S. Department of Energy, P.O Box 3621–SJ, Portland, Oregon 97208: Phone (503) 234–3361, extension 5137.

Dated at Portland, Oregon, this 7th day of March 1980.

Sterling Munro,

Administrator.

[FR Doc. 80-8368 Filed 3-18-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Emergency Contact Telephone Number Changes

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Emergency contact telephone number changes.

SUMMARY: The Division of Power Supply and Reliability is responsible for receiving timely reports from electric utilities regarding power outages or other pending system emergencies. These reports are required by the Code of Federal Regulations. Beginning on March 17, 1980, a change in the DOB telephone system will result in a complete change of the telephone numbers for this division. Since these emergency calls are necessary in determining the appropriate Federal Response Actions, all electric utilities are being notified through this notice and by other means of the telephone number changes.

For reporting of electric power system incidents, (202) 653-3832
Electric Power Monitoring Center, (202) 653-3825
Director, Division of Power Supply and Reliability, Richard E. Weiner (202) 653-3899
Chief, System Reliability and Emergency Response Branch, James M. Brown, Jr. (202) 653-3825
Chief, Power Supply Planning Branch, William Graban (202) 653-3828
Chief, Strategic and Emergency Planning Branch, (202) 653-3889
Chief, System Coordination and Power Plant Productivity Branch, James Barker (202) 653-3886
Chief, Source Technology and Economics Branch, Alan Starr (202) 653-3903
Emergency Electric Power Administration, (Formally DEPA), (202) 653-3889

DATES: Effective March 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Ms. Joan Hairston, Economic Regulatory Administration, Room 4103, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3899.

Jerry L. Pfeffer,

Assistant Administrator, Power Supply and Reliability, Economic Regulatory Administration.

[FR Doc. 80-8266 Filed 3-18-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1439-2]

Issuance of PSD Permit

Notice is hereby given that the Environmental Protection Agency (EPA) Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442-7176, has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52) regulations.

Source: Publishers Paper Times Mirror, 419 Main Street, Oregon City, Oregon 97045.

The permit issued on February 5, 1980, constitutes approval to construct a wood waste boiler as part of a production expansion at the newsprint manufacturing mill in Newberg, Oregon, subject to certain conditions, including:

1. Emissions of particulate matter (PM), oxides of nitrogen (NO_x), carbon monoxide (CO) and hydrocarbons (HC) shall not exceed the following:

Emission Limitations

Facility	Pollutant	Pounds per hour	Tons per year	Concentration or emission factor
Hog fuel boiler	PM	86.5	237	0.04 gr/dscf at 12% CO_2 10% opacity.
	CO	220	569	
	HC	220	569	
	NO_x	769	2,850	

2. With the exception of particulate matter, oxides of nitrogen, carbon monoxide and hydrocarbons, potential emissions of any pollutant regulated under the Clean Air Act will be less than 250 tons per year

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the ninth Circuit Court of Appeals. A petition for review must be filed on or before May 19, 1980.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: March 10, 1980.

Donald P. Dubois,

Regional Administrator, Region 10.

[FR Doc. 80-8388 Filed 3-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1439-3]

Issuance of PSD Permit

Notice is hereby given that the Environmental Protection Agency (EPA) Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442-7176, has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52) regulations.

Source: Alyeska Pipeline Service Company, P.O. Box 4-2, Anchorage, Alaska 99509.

The permit issued on January 24, 1980, constitutes approval to construct two 13,500 horsepower oil fired turbines, three 800 Kw Solar turbine generators, seven small heaters and one 150 pound per hour solid waste incinerator at Pump Station #7 near Livengood, Alaska, subject to certain conditions, including:

1. Emissions of nitrogen oxides (NO_x) shall not exceed the following:

Pollutant	Concentration (% by volume at 15% O_2 dry basis)
NO_x	$\frac{(0.015\ (14.4)+F)^{*}(NSPS)}{Y}$

* Y=manufacturer's rated heat rate at peak load in kilojoules per watt hour based on the lower heating value of the fuel. The value of Y cannot exceed 14.4.

NSPS—New Source Performance Standards

F is a function of the fuel nitrogen content as follows:

N (fuel bound nitrogen by percent weight)	F
N<0.015	0
0.015 < N<0.1	0.04N
0.1 < N<0.25	0.004+0.0067 (N-0.1)
N<0.25	0.005

2. With the exception of NO_x, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this modification will be less than 250 tons per year.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed on or before May 19, 1980.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: March 10, 1980.

Donald P. Dubois,

Regional Administrator, Region 10.

[FR Doc. 80-8387 Filed 3-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1439-4]

Notice of Issuance of PSD Permit

Notice is hereby given that the Environmental Protection Agency (EPA), Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101 (206) 442-7176, has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality

Deterioration (40 CFR Part 52) regulations.

Source: Shell Oil Company, P.O. Box 700, Anacortes, Washington 98221.

The permit issued on January 24, 1980, constitutes approval to modify the existing refinery located at Anacortes, Washington to allow the processing of higher sulfur content crude oil and install additional storage tanks subject to certain conditions, including:

1. Shell Oil shall comply with the terms of approval specified in the letter from the Northwest Air Pollution Control Agency (NWAPCA), issued on December 19, 1979. (Future modifications of the permit do *not* automatically amend this PSD permit.)

2. Shell Oil shall not cause or allow sulfure dioxide and hydrocarbon emissions from the subject operation to exceed 50 tons per year, 1,000 pounds per day, or 100 pounds per hour. A source test will be conducted for sulfur dioxide and a copy sent to the Northwest Air Pollution Control Agency (NWAPCA) within ninety (90) days of the sulfur plant becoming operational. EPA will contemporaneously be sent a copy of this information.

3. With the exception of sulfure dioxide and hydrocarbons, potential emissions of any pollutant regulated under the Clean Air Act will be less than 100 tons per year.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed on or before May 19, 1980.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: March 10, 1980.

Donald P. Dubois,

Regional Administrator, Region 10.

[FR Doc. 80-8386 Filed 3-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1439-5]

Issuance of PSD Permit

Notice is hereby given that the Environmental Protection Agency (EPA) Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442-7176, has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52) regulations.

Source: Puget Sound Power and Light Company, Puget Power Building, Bellevue, Washington 98009.

The permit issued on December 19, 1979constitutes approval to install two General Electric model PG7101E combustion turbines at the Pt. Whitehorn facility near Ferndale, Washington subject to certain conditions, including:

1. Emissions of nitrogen oxides (NO_x), sulfur dioxide (SO_2), and particulate matter (PM) shall not exceed the following:

Pollutant	Concentration (% by volume at 15% O_2 dry basis)	lb/hr
NO_x	$\frac{(.0075\ (14.4) + F^*}{Y}$ (NSPS)	500 (BACT)
SO_2	.015 or a maximum fuel sulfur content of 0.8% by weight (NSPS)	700 (BACT)
PM	10% opacity (BACT)	54 (BACT)

*Y = manufacturer's rated heat rate at peak load in kilojoules per watt hour based on the lower heating value of the fuel. For values of Y greater than 14.4 use Y = 14.4.

F is a function of the fuel nitrogen content as follows:

N (fuel bound nitrogen by percent weight)	F
N<0.015	0
0.015 > N<0.1	0.04N
0.1 < N<0.25	0.004 + 0.0067(N − 0.1)
N >0.25	0.005

NSPS—Federal New Source Performance Standards
BACT—Best Available Control Technology

2. With the exception of NO_x, SO_2, and PM, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this modification will be less than 250 tons per year.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed on or before May 19, 1980.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: March 10, 1980.

Donald P. Dubois,

Regional Administrator, Region 10.

[FR Doc. 80-8385 Filed 3-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1439-6]

Issuance of PSD Permit

Notice is hereby given that the Environmental Protection Agency (EPA) Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442-7176, has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52) regulations.

Source: Precision Castparts Corporation, 4600 Southeast Harney Drive, Portland, Oregon 97206.

The permit issued on January 24, 1980, constitutes approval to expand the existing casting foundry located at Clackamas, Oregon, subject to certain conditions, including:

1. Precision Castparts shall comply with the terms of approval specified in the letter from the Oregon Department of Environmental Quality (DEQ), issued on December 19, 1979. (Future modifications of the permit do *not* automatically amend this PSD permit.)

2. Precision Castparts shall not cause or allow particulate emissions from the subject operation to exceed 25 tons per year, 500 pounds per day, or 50 pounds per hour. Emissions of particulate matter shall not exceed 0.02 grains per standard cubic foot or an opacity equal or greater than twenty percent (20%) for a period aggregating more than thirty (30) seconds in any one hour.

3. With the exception of particulate matter, potential emissions of any pollutant regulated under the Clean Air Act will be less than 100 tons per year.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed on or before May 19, 1980.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: March 10, 1980.

Donald P. Dubois,

Regional Administrator, Region 10.

[FR Doc. 80-8384 Filed 3-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1439-1]

Underground Injection Control; List of States Requiring Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice of Amended List of States Requiring Underground Injection Control (UIC) Programs.

SUMMARY: Section 1422(a) of the Safe Drinking Water Act requires the Administrator of the Environmental Protection Agency to list in the **Federal Register** "* * * each State for which in his judgment, a State Underground Injection Control (UIC) program may be necessary to assure that underground injection will not endanger drinking water sources." For those States listed,

the Act requires the development of programs to protect underground drinking water sources. EPA listed 22 States on September 25, 1978 (43 FR 43420); and amended the list by adding 17 more States on June 19, 1979, (44 FR 35288). Today, EPA adds 16 States to the amended list.

DATE: Comments are due April 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Belk, Office of Drinking Water (WH–550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone No. (202) 426–3934.

SUPPLEMENTARY INFORMATION: Section 1421 of the Safe Drinking Water Act (Pub. L. 93–523 as amended by Pub. L. 95–190) requires the Administrator of the Environmental Protection Agency (EPA) to publish regulations which contain minimum requirements for State programs to prevent underground injection which endangers drinking water sources. Such regulations were reproposed on April 20, 1979 (44 FR 23738). The Agency anticipates they soon will be promulgated.

Section 1422(a) of the Act further requires the Administrator to "* * * list in the **Federal Register** each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources * * *."

EPA adopted a phased approach by listing States based on its relative ranking of needs as explained in the **Federal Register** (43 FR 43420) when EPA listed the first 22 States on September 25, 1978. EPA later amended the list by adding 17 States to the list on June 19, 1979. EPA also listed Maryland on April 11, 1979, and Idaho on October 3, 1979, in response to their requests to be listed.

In order to bring the disposal of hazardous wastes through well injection under regulatory control in parallel to the control of surface disposal under the Resource Conservation and Recovery Act, EPA decided to list all the remaining States by May 1980, as noted in the **Federal Register** (44 FR 23738) April 20, 1979. EPA is today adding the following sixteen States onto the amended list of States requiring a State underground injection control program to assure that underground injection will not endanger drinking water sources.

Amended List of States Requiring A State Underground Injection Control Program

Alaska
Connecticut
Delaware
District of Columbia
Guam
Maine
Northern Mariana Islands
Nevada
New Hampshire
Commonwealth of Puerto Rico
Rhode Island
American Samoa
South Dakota
Trust Territories of the Pacific Islands
Vermont
Virgin Islands

Section 1422(b) requires each listed State, within 270 days from the date of final promulgation of the "minimum requirements" regulations under Section 1421, to submit an application to the Administrator with a plan to implement a UIC program in response to these requirements. The Administrator may, for good cause, extend the date for submissions of an application of any State for an additional 270 days.

If the Administrator approves the State's application, the State shall have primary enforcement responsibility for its program (Section 1422(b)(3)). If the Administrator disapproves an application in whole or in part, if a State fails to make application within the allowed time, or if the Administrator subsequently determines that a State's program no longer meets the conditions for primacy, the Administrator must prescribe a program applicable to such State within 90 days after the date of such disapproval under Section 1422(a).

States that are listed may apply for Federal financial assistance for developing and implementing the Underground Injection Control Program in accordance with regulations entitled "State Underground Water Source Protection Program Grants" issued on October 12, 1978, 43 FR 47130.

PUBLIC COMMENTS: Although the Act does not require public comment on listings under Section 1422(a), it is EPA's policy to provide for public participation in its decisions. Accordingly, EPA is soliciting written public comments on today's action. Comments should be sent to Thomas E. Belk at the address noted above. EPA will consider all comments carefully, and issue a response in the **Federal Register** which either reconfirms today's list or makes appropriate revisions in the light of the comments. EPA will accept comments until April 18, 1980.

Dated: March 13, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-8369 Filed 3-18-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL ELECTION COMMISSION

[Notice 1980–9]

Multicandidate Political Committees; Index

The Federal Election Commission today publishes a comprehensive Index of "Multicandidate Political Committees," which is defined by 2 U.S.C. 441a(a)(4) of the Federal Election Campaign Act of 1971, as amended, as a political committee—

* * * Registered under Section 433 for a period of not less than 6 months, which has received contributions from more than 50 persons, and except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

The Multicandidate Committee Index contains two sections—Party-Related Committees and Non-Party Related Committees—and has been derived from a review of the reports and statements filed with the Commission, the General Accounting Office, the Clerk of the U.S. House of Representatives and the Secretary of the U.S. Senate since April 7, 1972. Please note that all committees which had met the qualifications for Multicandidate Committee status prior to January 1, 1975, are determined to have been qualified as of January 1, 1975, the effective date of the 1974 amendments to the Federal Election Campaign Act.

In addition, 11 CFR 100.5(g) states "all committees * * * established, financed, and maintained or controlled by the same corporation, labor organization, persons, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated." Therefore, committees have been included in this index specifically identifying their connected or affiliated organization(s) as reported by each committee.

The Commission is publishing this notice of an Index as prescribed by 2 U.S.C. 438(a)(6), requiring periodic publication in the **Federal Register** of an Index of Multicandidate Committees, including the date of registration of such committees and the committees' dates of qualification under 2 U.S.C. 441a(a)(4). Updates to this Index will be published monthly. Copies of this Index are available upon written request from the Federal Election Commission's Office of Public Records, 1325 K Street, NW., Washington, D.C. 20463 for $4 per copy or by calling (202) 523–4181 or toll free 800–424–9530.

Any person who believes that a committee not included on this Index has, in fact, met the qualifications for multicandidate status, should so advise the Commission in writing and provide documentation as appropriate, so that the Commission can correct or update its records.

Para Persona De Hablar Espanol

Si usted tiene difficultades en entendar el indice, escriba a Federal

Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

Dated: March 1, 1980.

Robert O. Tiernan,

Chairman.

[FR Doc. 80-8301 Filed 3-18-80; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 8, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3890.

Filing party: E. F. Brimo, Treasurer, Global Terminal and Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Global Terminal and Container Services shall perform container stevedoring and terminal services for the container barge feeder service operated by McAllister Lighterage Line, Inc. according to the schedules attached to the agreement.

Agreement No. T-3891.

Filing party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3891 is a month-to-month lease between the Port as lessor and Foss Alaska Line, Inc. The leased premises are to be used for the storage of empty containers.

Agreement No. T-3896.

Filing party: J. Robert Bray, Executive Director, Virginia Port Authority, 1600 Maritime Tower, Norfolk, Virginia 23518.

Summary: Agreement No. T-3896, between the Virginia Port Authority (VPA) and Portsmouth Terminals, Inc. (PTI) provides for the 5 year, 4 month lease by VPA to PTI of certain pier and real property at Portsmouth, Virginia to be used as a public marine terminal. PTI will compensate VPA for the use of these premises according to a mutually agreed formula as set forth in the agreement.

Agreement No. 7680-41.

Filing party: Dominick James Manfredi, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Summary: Agreement No. 7680-41 modifies the conference agreement by adding specific language which authorizes the establishment of rules relating to the collection of freight, including rules providing credit conditions and for the suspension and restoration of credit privileges for and in connection with all cargo except wheat shipped in bulk.

Agreement No. 10332-1.

Filing party: Charles F. Warren, Warren & Associates, P. C., 100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10332-1 modifies a space charter agreement between Korea Marine Transport Company, Ltd. and Nippon Yusen Kaisha (NYK) in the trade between Korea and the Pacific Coast of the United States. The purpose of the modification is to: (1) remove the restriction on NYK from transporting cargo transshipped from or to Far Eastern nations; (2) exclude from the division of revenue, and amend reporting requirements to reflect, cargo carried by NYK in the non-Korean/U.S. trade; and (3) extend the term of the agreement for a period of three years from July 1, 1980.

Agreement No. 10371-1.

Filing party: Charles F. Warren, Esquire, Warren & Associates, P. C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Summary: Agreement No. 10371-1 modifies the basic agreement of the Korea Marine Transport Company, Limited, Nippon Yusen Kaisha, Showa Line, Ltd., Space Charter Agreement to extend the duration of the agreement beyond its current expiration date of June 30, 1980 through July 1, 1983.

By Order of the Federal Maritime Commission.

Dated: March 13, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-8372 Filed 3-18-80; 8:45 am]

BILLING CODE 6730-01-M

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 28, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-1768-13.

Filing Party: Dorothy L. Vecchiarelli, Supervising Paralegal, Sea-Land Industries, Inc., P.O. Box 900, 10 Parsonage Road, Edison, New Jersey 08817.

Summary: Agreement No. T-1768-13, between the City of Oakland (City) and Sea-Land Service, Inc., (Sea-Land) modifies the parties' basic agreement which provides for the preferential assignment of certain facilities to Sea-Land. The modification provides for: (1) an extension of time within which Sea-Land may exercise its right to terminate

said agreement for an additional thirty (30) day period to and including the 31st day of March, 1980; and (2) for an extension of the period in which the current minimum and maximum compensation amounts will apply under said agreement for two (2) months from and after the 1st day of April, 1980 to and including the 31st day of May, 1980.

By Order of the Federal Maritime Commission.

Dated: March 14, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-8369 Filed 3-18-80; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 12, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before April 7, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Nuclear Regulatory Commission

The NRC requests clearance of the recordkeeping and reporting requirements contained in new Subpart B of 10 CFR Part 4, "Nondiscrimination in Federally Assisted Commission Programs". The Rehabilitation Act of 1973, as amended, prohibits discrimination against qualified handicapped individuals under programs or activities receiving Federal financial assistance. In Executive Order 11914, dated April 28, 1976, the President directed that all Federal agencies providing financial assistance issue regulations consistent with standards and procedures to be established by the Secretary of HEW. The HEW Guidelines were published on January 13, 1978 (43 FR 2131), and are codified at 45 CFR Part 85. On May 8, 1979, the NRC published a proposed rule to implement the Rehabilitation Act of 1973, as amended. The language of that rule was very similar to the HEW Guidelines. After considering public comments on the proposed rule and consulting with HEW, the NRC staff made several changes in the final rule. Nearly all of those changes reflect the language contained in the regulations of HEW which implement Section 504 in its Federal financial assistance programs. All of the reporting requirements in the final rule are modeled after HEW regulations and have been determined by that agency to be the most practicable and effective means of assuring compliance with Section 504. Section 4.127(d) requires that, where structural changes to facilities are necessary to render a Federally assisted program accessible to and usable by handicapped persons, a transition plan is to be developed, approved by NRC, and maintained by recipients for public inspection. Section 4.125(d) requires that information obtained by a recipient-employer as to the medical condition or history of an applicant for employment shall be collected and maintained for review by U.S. Government officials investigating compliance with the Rehabilitation Act of 1973. Section 4.231(e) requires that recipients perform self-evaluations of policies and practices that are covered by Section 504 to assure that their programs are in compliance with the law. This self-evaluation is to be done with the assistance of interested persons, including handicapped persons and/or their representatives. Should this self-evaluation reveal practices or policies that do not comply with NRC regulations, these must be modified and remedial steps taken to eliminate the effects of past discrimination. The self-evaluations shall be maintained on file for public and/or NRC inspection for a period of three years. NRC does not expect transition reports from recipients under § 4.127(d) since the Commission believes that the existing programs will not require structural changes. The NRC estimates the recordkeeping burden for § 4.125(d) to average 50 minutes per respondent; the recordkeeping burden for § 4.231(e) to average 5 minutes per respondent; and the preparation of the self-evaluation under § 4.231(e) to impose a one-time burden of 900 hours for each of the 26 States anticipated to be respondents.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-8367 Filed 3-18-80; 8:45 am]

BILLING CODE 1610-01-M

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the regulatory Reports Review Staff, GAO, on March 13, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before April 7, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Nuclear Regulatory Commission

The NRC requests clearance of a new, single-time, special request for information concerning evacuation time estimates for areas surrounding future nuclear power plants. The request has been sent to respondents who are applicants for or holders of Construction Permits for nuclear power plants. However, the request for data has been stayed by letter dated March 11, 1980, from the Emergency Preparedness Task Group until compliance with 44 U.S.C. 3512 has been obtained. Evacuation time estimates for areas surrounding sites of future nuclear power plants are currently being prepared as part of an ongoing program to upgrade the state of emergency preparedness. The NRC staff, through this special request for information, will obtain these estimates from utilities on an accelerated basis. This will enable the staff to identify, at an early stage in the licensing proces,

those cases in which unusual evacuation constraints exist and what, if any, special planning measures should be considered. In cases where extremely difficult logistical problems would accompany evacuation, such as those which would be found at a site near a large population center, special facility modifications might be appropriate. The NRC staff has determined that in order to proceed with the analysis of the necessary data in a timely manner, utilities will have to submit site-specific information. The NRC estimates that evacuation time data will be submitted for 50 future plant sites and that the burden for the preparation of estimates for each site will average 320 hours.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-8416 Filed 3-18-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 110; Advice No. 1570]

Mountain Bell Telephone Co., the Colorado Public Utilites Commission; Proposed Intervention in Telephone Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Colorado Public Utilities Commission concerning the application of the Mountain Bell Telephone Company for an increase in its annual telephone rates.

GSA represents the interest of the executive agencies of the U.S. Government as users of telecommunications services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-556/0750, on or before April 18, 1980, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons of record in the proceeding.

(Section 201(a)(4), Federal Property and Administration Services Act, 40 U.S.C. 481(a)(4))

Dated: March 11, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-8268 Filed 3-18-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

Administration for Children, Youth, and Families; Corrections

AGENCY: Office of Human Development Services, Department of Health, Education, and Welfare.

ACTION: Notice of proposed guidelines; corrections.

SUMMARY: In FR Doc. 80-5297, appearing at 45 FR 12050, on February 22, 1980, corrections are made to the date by which comments must be received and two sections of the preamble are re-lettered.

ADDRESS: Comments should be sent to—Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Beatrice D. Moore, Director, Child Welfare Services State Grant Division, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013 (202) 755-8888.

SUPPLEMENTARY INFORMATION: In the Guidelines appearing on February 22, 1980, the closing date for comments was listed as March 21, 1980. In order to provide more opportunity for public comment, additional time is being provided for the submission of written comments. Comments received after March 21, 1980 but before April 21, 1980, will be considered in any revision of the Guidelines for State Plans that will be effective in fiscal year 1982. The extremely limited time available for the development of State Plans that will be effective by October 1, 1980, does not allow for consideration of the comments for the fiscal year 1981 State Plans.

In addition, the sections of the preamble are corrected. On page 12052, sections E and F ("Fiscal Year 1980 Supplemental Appropriation " and "Fiscal Year 1981 State Plans," respectively) are relettered as sections D and E, respectively.

Dated: March 14, 1980.

Warren Master,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 80-8346 Filed 03-18-80; 8:45 am]

BILLING CODE 4110-92-M

Office of Education

Grants to Local Educational Agencies Serving Areas With Concentrations of Children From Low-Income Families; Intent To Compromise an Audit Claim

AGENCY: Office of Education, HEW.

ACTION: Notice of intent to compromise a claim.

SUMMARY: Notice is given that under Section 452(f) of the General Education Provisions Act, 20 U.S.C. 1234a(f), the Commissioner intends to compromise a Title I, ESEA audit claim against the New Jersey Department of Education. This claim is now on appeal before the Education Appeal Board, Docket No. 4-(6)-74.

DATE: Interested persons may submit written data or comments to the address listed below on, or before May 5, 1980.

ADDRESS: Robert J. Arnot, Education Division, Office of the General Counsel, Department of Health, Education, and Welfare, 400 Maryland Avenue, SW. (Room 4091, F0B-6), Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION:

Under Section 451(a) of the General Education Provisions Act, 20 U.S.C. 1234, the Commissioner established the Education Appeal Board to, among other things, provide hearings on appeals from certain types of final audit determinations against State educational agencies. The Board's procedures published in the Federal Register on May 25, 1979 (44 FR 30529), became effective on June 29, 1979.

Presently, an audit claim against the New Jersey Department of Education (SEA) is before the Education Appeal Board (Board) for review (Docket No 4-(6)-74). The claim in question, arose out of an audit that the Comptroller General of the United States (GAO) performed concerning New Jersey's administration of Federal funds provided under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a *et seq.* (1974)). That portion of the Title I program which was covered by the audit provides grants to local educational agencies for programs that are designed to meet the special educational needs of certain educationally deprived children residing in eligible low-income areas.

In an audit report issued on April 7, 1971, the GAO concluded that, during fiscal years 1966 through 1969, a substantial part of Camden, New Jersey's Title I program "provided general aid to the pubic and private school systems there rather than aid to educationally deprived children." The GAO recommended that HEW "should review those Camden projects that appear to be inconsistent with the objectives of the 1965 Act and should effect recoveries of, or make adjustments in, Title I funds where warranted."

On May 28, 1974, the Acting Deputy Commissioner for School Systems issued a final determination letter concerning the findings in the GAO report. The final determination letter concluded that Camden had improperly used $637,098 in Title I funds for "general aid" during fiscal year 1969. On June 25, 1974, the New Jersey SEA appealed the Deputy Commissioner's final audit determinations for review before the Title I Audit Hearing Board (which was recently replaced by the Education Appeal Board that assumed jurisdiction over all appeals pending before the Title I Audit Hearing Board). On September 13, 1979, a prehearing conference was held before the Board. Subsequently, it was stipulated that the applicable statute of limitations (20 U.S.C. 3383) bars the Office of Education from recovering all but $9,805 of the amount in dispute. This $9,805 in Title I funds was spent, between May 28, 1969 and June 30, 1969, for a fine arts instructional program and development of a program of communicative instructional facilities (audio-visual equipment).

Under Section 452(f) of the General Education Provisions Act, as amended by the Education Amendments of 1978 (20 U.S.C. 1234a(f)) the Commissioner is authorized to compromise audit claims which do not exceed $50,000. However, that section requires that, at least 45 days prior to exercising the authority to compromise this type of claim the Commissioner must publish a notice of intent in the **Federal Register.** In accordance with that requirement, this is a notice of intent to accept New Jersey's offer to pay $4,000 as a cash settlement of this $9,805 claim. Given the cost of taking the claim through the audit appeal process and the difficulties in gathering evidence for this old cliam, it would not be practical or in the public interest to continue to pursue recovery of the full $9,805. In addition, the practice which resulted in the claim has been corrected and will not recur. Furthermore, acceptance of this compromise will not adversely affect the Office of Education's ability to collect other claims. Public comment is invited on the intent to compromise this $9,805 claim for $4,000.

(20 U.S.C. 1234a(f))

(Catalog of Federal Domestic Assistance No. 13.428, Educationally Deprived Children—Local Educational Agencies and 13.430, Educationally Deprived Children—State-Administration)

William L. Smith,

Commissioner of Education.

Dated: March 12, 1980.

[FR Doc. 80-8300 Filed 3-18-80; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program; Hearing

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of Hearing.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program will hold a hearing in San Francisco, California on April 22, 1980 for the purpose of gathering evidence on the operation and administration of the program authorized by Pub. L. 874, Eighty-first Congress. At the hearing, the Commission is to take evidence from representatives of local educational agencies in Arizona, California, Hawaii and Nevada. The hearing will be open to the general public, and all interested persons are invited to attend. Those interested in presenting their views should submit a request to testify including: the person testifying, their affiliation, their organization's address and telephone number, the subject matter of testimony, preferred time of day for testifying, and need for an English translator or a qualified interpreter and/or signer for the deaf. The request should be received by the Commission no later than mid-April, 1980. Those unable to attend the hearings who wish to submit written testimony may do so by forwarding the text to the Commission no later than mid-April, 1980. Notice of the hearing is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATES: April 22, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m.

ADDRESS: The Georgian Room, Hotel St. Francis, 335 Powell, San Franciso, California 94119.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036, tel no. (202) 653-5817.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95-961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Pub. L. 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Pub. L. 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, N.W., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C., on the 14th day of March, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-8373 Filed 3-18-80; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program; Hearing

AGENCY: Commission on the review of the Federal Impact Aid Program.

ACTION: Notice of Hearing.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program will hold a hearing in Window Rock, Arizona on April 24, 1980 for the purpose of gathering evidence on the operation and administration of the program authorized by Pub. L. 874, Eighty-first Congress. At the hearing, the Commission is to take evidence from representatives of local educational agencies in New Mexico, Oklahoma, and Arizona. The hearing will be open to the general public, and all interested persons are invited to attend. Because of Window Rock's location, it is expected that a majority of school districts represented there will be speaking about Impact Aid and Indian lands. If those persons wishing to attend do not have special concerns with Impact Aid and Indian lands, the Commission would like to offer them the option of attending a

hearing in a location which may be more accessible to them—either San Antonio, Texas, or San Francisco, California. Those interested in presenting their views should submit a request to testify including: The person testifying, their affiliation, their organization's address and telephone number, the subject matter of testimony, preferred time of day for testifying, and need for an English translator or a qualified interpreter and/or signer for the deaf. The request should be received by the Commission no later than mid-April, 1980. Those unable to attend the hearings who wish to submit written testimony may do so by forwarding the text to the Commission no later than mid-April, 1980. Notice of the hearing is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: April 24, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m.

ADDRESS: Navajo Tribal Civic Center, Window Rock, Arizona 86515. Alternative dates and addresses for those who do not have special Indian concerns: (1) April 22, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m. The Georgian Room, Hotel St. Francis, 335 Powell, San Francisco, California 94119. (2) April 25, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m. San Antonio Marriott Hotel, the Landmark Alamo Plaza, 711 East Riverwalk, San Antonio, Texas 78205.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, NW, Suite 837, Washington, D.C. 20036, tel. no. (202) 653–5817.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95–961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Pub. L. 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Pub. L. 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, NW, Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C., on the 14th day of March, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-8374 Filed 3-18-80; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program; Hearing

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of Hearing.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program will hold a hearing in San Antonio, Texas on April 25, 1980 for the purpose of gathering evidence on the operation and administration of the program authorized by Pub. L. 874, Eighty-first Congress. At the hearing, the Commission is to take evidence from representatives of local educational agencies in Texas, Oklahoma, Louisiana and Arkansas. The hearing will be open to the general public, and all interested persons are invited to attend. Those interested in presenting their views should submit a request to testify including: The person testifying, their affiliation, their organization's address and telephone number, the subject matter of testimony, preferred time of day for testifying, and need for an English translator or a qualified interpreter and/or signer for the deaf. The request should be received by the Commission no later than mid-April, 1980. Those unable to attend the hearings who wish to submit written testimony may do so by forwarding the text to the Commission no later than mid-April, 1980. Notice of the hearing is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: April 25, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m.

ADDRESS: San Antonio Marriott Hotel, the Landmark Alamo Plaza, 711 East Riverwalk, San Antonio, Texas 78205.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street NW., Suite 837, Washington, D.C. 20036, telephone No. (202) 653–5817.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95–961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Pub. L. 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, NW., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C., on the 14th day of March, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-8375 Filed 3-18-80; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

Part A, Chapter AHE (Office of Equal Employment Opportunity) of the Statement of Organization, Functions, and Delegations of Authority (43 FR 48018, October 18, 1978) is amended to clarify the responsibilities of the Office of Equal employment Opportunity. Beginning at Section AHE.20.B (page

48019) delete all subsections and replace with the following:

B. The Office of Affirmative Action and Data Analysis is responsible for the overall management of the Department's affirmative action program for Equal Employment Opportunity. Recommends policies regarding affirmative action and the handicapped minority data system in keeping with Federal legislation, Executive Orders, Equal Employment Opportunity Commission, and the Office of Personnel Management requirements; develops and issues guidelines regarding affirmative action plans, process and coverage, coordinates the development of and prepares the final draft of the Department-wide affirmative action plan.

Establishes and maintains uniform handicapped minority data system to meet the needs of affirmative action planning under Section 717 (a) of the Civil Rights Act of 1964, as amended, throughout the Department; controls the development and dissemination of handicapped minority employment data in coordination with the Health, Education, and Welfare personnel data system.

Exercises functional supervision over persons responsible for affirmative action planning in the Principal Operating Compoonents (POCs), Agencies and Regions under a redelegation from the Deputy Assistant Secretary for Equal Employment Opportunity (DAS/EEO). Responds to outside requests for employment data, such as those related to complaints interrogatories, General Accounting Office reviews, Equal Employment Opportunity Task Forces, etc., and requests for standard information and reports from individuals and community groups; reviews and recommends approval or rejection of affirmative action plans for the Office of the Secretary (OS) and the principal Operating Components. Reviews and makes recommendations to the DAS/EEO regarding the appropriateness of items submitted by the Office of the Secretary and POCs for the Secretary's initiative tracking system.

Provides technical assistance and helps organize and provide training of affirmative action matters to managers and Equal Employment Opportunity (EEO) Officials, and personnel staffs throughout the Department; provides leadership and assistance to POCs and Regional Offices in resolving affirmative action problems; serves as liaison with outside agencies, community groups, and professional associations regarding EEO affirmative action matters.

Reviews proposed and existing legislation, regulations, rules and policies for affirmative action program impact and gives clearances or prepares comments for the DAS/EEO insuring appropriate input for affected employees.

C. The Handicapped Employment Program Office provides Departmental leadership and direction in the development and implementation of program policy, and objectives for equal employment opportunity and affirmative action in the employment of handicapped individuals and disabled veterans, complying with Section 501 of the Rehabilitation Act of 1973, as amended, and Section 403 (c) of the Veterans Readjustment Assistance Act of 1974, as amended.

Responsible for functional supervision of the Department-wide effort, under a redelegation from the DAS/EEO, for program development, promotion, goal-setting, monitoring, analysis and evaluation of equal employment opportunity and affirmative action for handicapped individuals and disabled veterans.

Provides consultative service and technical assistance in Equal Employment Opportunity Commission (EEOC) directed activities; such as:

Affirmative action planning and reporting;

Processing complaints of discrimination on the basis of handicap;

Interpretation of rules, regulations, and policy directives.

Provides consultative service and technical assistance in the area of selective placement directed by the Office of Personnel Management, such as:

Recruitment, placement, appointment, conversion, and retention of disabled employees.

Understanding about disabilities, job and work site modification, and resources for obtaining rehabilitation assistance.

Other reasonable accommodations to disabled employees, including the removal or avoidance of architectural, transportation, communication, procedural, or attitudinal barriers.

Prepares the Department's annual program report to the Office of Equal Employment Opportunity Commission.

Assists in the coordination of a system of data reporting for analysis of employment and advancement accomplishments, and the identification of problem areas.

Coordinates a system for referral of handicapped job applicants, maintains an applicant supply file, and refers qualified applicants to selective placement coordinators and managers.

Acts as the principal point of contact for the Department and the EEOC and the Office of Personnel Management (OPM), serving as the link between these offices and Departmental offices having program responsibility. Also serves as the focal point for liaison with other Federal agencies, the national headquarters of organizations serving the handicapped and disabled veteran communities, and the public in matters concerning handicapped and disabled veterans employment in the Department.

Reviews proposed and existing legislation, regulations, rules, and policies for impact on handicapped and disabled veteran employment, prepares comments for the DAS/EEO, insuring appropriate input from handicapped employees.

Serves as an advocate for the employment of handicapped individuals and disabled veterans in the Department, and for the equality of their treatment after they are employed.

Provides support to the Secretary, Under Secretary and the Assistant Secretary for Personnel Administration (ASPER) with the Secretary's co-chairing of the Interagency Committee on Handicapped Employees (ICHE). Serves as co-chairperson of ICHE Standing Committee. Negotiates assignment of Health, Education, and Welfare employees as members of ICHE work groups and subcommittees.

Provides executive secretariat services for the Health, Education, and Welfare Handicapped Employees Committee.

D. The Office of Complaints Analysis and Monitoring provides leadership, technical assistance, and guidance regarding the implementation of the Equal Employment Act of 1972, the Age Discrimination in Employment Act of 1967, as amended, and the Rehabilitation Act of 1973, as amended. Reviews proposed and existing legislation, rules, regulations, instructions, and policies for their impact on equal employment opportunities; originates correspondence, reviews, and gives clearance on correspondence and prepares comments for the DAS/EEO. Develops and recommends policy and procedural changes in the Department-wide program where necessary, and participates in policy formulation and in the drafting and circulation of Circulars, Instructions, and Manuals.

Responsible for collecting, controlling, and analyzing all data pertaining to the processing of discrimination complaints and derivative charges and appeals, class complaints and claims; preparing and issuing timely reports required by the EEOC, OPM, Merit Systems Protection Board and Department regulations. Responsible for developing reports and information on complaints processing for affirmative action planning, monitoring and implementation.

Provides technical assistance and advice to ASPER concerning the processing of class complaints; advises ASPER and the DAS/EEO on the status of complaints, charges, claims, and appeals throughout the Department; and, when appropriate, recommends the assumption of jurisdiction in specific cases. Advises the DAS/EEO concerning discriminatory patterns and practices; the performance of EEO Counselors and complaints investigation; the quality of EEO investigations and other EEO services, and the performance of EEO and other officials involved in the processing of complaints, charges, claims, and appeals.

The Office is the official source of all information concerning the status of all EEO complaints, charges, claims, and appeals in the Department including EEO matters remanded by appellate authorities and U.S. District Courts; insures quality control over processing systems by selecting, evaluating and sampling case files. The Office has authority to assume jurisdiction over complaints, charges and claims against officials having authority to issue final decisions; arranges for informal resolution, and, where appropriate, issues proposed dispositions. Prepares final decisions for the Assistant Secretary for Personnel Administration in the above cited circumstances.

Provides technical assistance and guidance to POCs, Principal Regional Officials (PROs), EEO Managers, EEO staffs, complainants and representatives, and to the public concerning rights, complaints processing, hearings, remands, appeals, and remedial or corrective actions. In consultation with the Office of General Counsel and other appropriate authorities, reviews, and assists in the

determination and recommendation of awards or denials of attorneys' fees and other corrective actions.

Recommends to ASPER and the DAS/EEO changes in procedures to insure equity and improve the efficiency of the complaints system. Provides functional supervision and oversight throughout the Department to POCs and PROs regarding precomplaint resources and processes, proposed dispositions and attempts at adjustment, decisions, appeals and District Court actions; and to the Office of Personnel Systems Integrity (OPSI) regarding acceptance of complaints and investigations.

E. The mission of the Minorities Employment Program is to provide Department-wide leadership and direction in the development of goals and objectives for a positive, comprehensive equal employment opportunity program for minorities at all grade levels and in all occupational series in accordance with the requirements of the Civil Service Reform Act, pertaining to minority underrepresentation. Conducts studies and analyses of problem areas concerning the employment and advancement of minorities and recommends solutions for improvement. Develops guidelines, criteria and standards for projecting, measuring, and reporting equal opportunity aspects of different ethnic cultures affecting conditions of employment and recommends appropriate affirmative actions to increase employment for underrepresented minority groups. Exercises leadership responsibility for initiating and developing awareness programs, focusing on current and historical racial/ethnic prespectives that reflect affirmative impact on the Department and the nation. Serves as the principal liaison between the Department, Civil Rights, employment, ethnic, professional, and community organizations pertaining to minority employment.

Provides Department-wide technical assistance to POC Heads and PROs on policies and the implementation of programs addressing the concerns and needs of underrepresented minorities and other minorities.

Provides leadership consultative services and technical assistance to POC Heads and PROs in the area of minority recruitment, placement training, and advancement of minority applicants, and employees.

Coordinates a minority referral system to servicing personnel offices and the Special Assistant to the Secretary on Advisory Committees.

Designs and monitors community demonstration projects with an emphasis on assisting minorities to develop marketable employment skills and abilities.

Is the principal point of contact for the Department, with the Office of Personnel Management, and the Equal Employment Opportunity Commission; serves as liaison between those offices and the Department offices having minority underrepresentation program responsibility.

Exercises functional supervision over Headquarters and field staff that have program responsibility and are engaged in furthering the goals of equal employment opportunity for all minority groups. Functional supervision includes analysis, identification of problem areas, evaluation of progress, and making recommendation for changes and improvements in program emphasis, policies and goals.

Reviews and comments on proposed and existing legislation, regulations, rules and policies to assess their impact on minorities employment. Makes recommendations and prepares comments for the DAS/EEO.

Responds to outside requests for employment data including Congressional inquiries, General Accounting Office reviews, the White House, interest groups, Departmental Task Forces and individuals.

F. The Office of the Federal Women's Program provides Department-wide leadership in the planning and implementation of programs to improve the status of women employees in the Department. The functions of the Office include:

Review and evaluation of Departmental programs, plans, and policies. Through such analyses identifies problem areas needing resolution to assure that the Federal Women's Program recognizes and responds to identified needs through shifting emphasis to respond to the changing roles of women in the work force.

Develop recommendations for improving Department-wide policies, programs and activities relating to the status of women employees.

Design measurement standards, using specific benchmarks, to evaluate program effectiveness for improving the employment status of women in the Department. From the analysis of problem areas concerning the employment and advancement of women, make specific recommendations to appropriate Department officials to correct the underrepresentation and exclusion of women in specific occupational groupings.

Exercise functional supervision over all Federal Women's Program Managers in the Principal Operating Components and Regions under a redelegation from the Deputy Assistant Secretary for Equal Employment Opportunity. This involves coordinating and planning programs and providing technical assistance to insure consistency with the provisions of the Department's Federal Women's Program.

Monitor sex discrimination complaints to determine if patterns of sex discrimination exist within organizational units, and, if found, work with supervisory and managerial personnel to correct problem areas.

Review pending and existing legislation to ascertain impact on women. Make recommendations for changes in legislation where found necessary.

Serve as the focal point of liaison for women with the appropriate offices within the EEOC, the OPM, professional organizations, and community groups.

Maintain liaison with the Women's Action Program and participate in the work of the Secretary's Advisory Committee on Women's Rights.

Provide technical advice and guidance to agency and regional officials in the development of programs for the Department's Federal Women's Program.

Dated: March 6, 1980.

Nathan J. Stark,

Secretary (Acting).

[FR Doc. 80-8345 Filed 3-18-80; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

Health Maintenance Organizations; Delegation of Authority

On October 23, 1978, I delegated the following authorities regarding the HMO program authorities under Title XIII of the Public Health Service Act, as amended, to the Regional Health Administrators, with authority to redelegate: Authority under (a) Section 1303 of the Public Health Service Act (42 U.S.C. 300e–2), to award approved grants for feasibility surveys; and (b) Section 1304 of the Public Health Service Act (42 U.S.C. 300e–3), to award approved grants for planning and for initial development costs. (See **Federal Register**, 43 FR 51452 dated 11/3/78).

I hereby delegate to the Regional Health Administrators in Regions II and IV, with authority to redelegate, the following authority: (a) authority under section 1303 (42 U.S.C. 300e), to approve grants for feasibility surveys. (The citation refers to a section of the Public Health Service Act, as amended.)

This delegation is effective March 14, 1980, and it will expire on March 15, 1981.

Dated: March 11, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80-8267 Filed 3-18-80; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-80-985]

Public Housing Modernization Program; Announcement of Proposal to Set Aside Fiscal Year 1980 Modernization Funds for Comprehensive Modernization

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice that funds have been set aside for Comprehensive Modernization of public housing projects.

SUMMARY: HUD is announcing a major effort to target a portion of Fiscal Year (FY) 1980 public housing modernization funds for the substantial rehabilitation of larger, rental public housing projects with severe physical deficiencies.

FOR FURTHER INFORMATION CONTACT: Pris Peake, Office of Public Housing, Department of HUD, 451 Seventh Street, SW., Washington, D.C., 20410, (202) 426–0744 (this is not a toll free number) or the Chief, Assisted Housing Management Branch, in the HUD Field Office for your jurisdiction.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of HUD has set aside a total of $20 million in FY 1980 public housing modernization contract authority for the Comprehensive Modernization of a limited number of public housing projects with severe physical deficiencies. The $20 million of contract authority will finance approximately $218.2 million of capital improvements. This effort is an integral part of the overall Modernization Program. Normal modernization policies and procedures, as set forth in 24 CFR Part 868 and related HUD Handbooks, will be applicable to Comprehensive Modernization, subject to a number of special requirements explained below. The Comprehensive Modernization effort is contingent upon the issuance in the Federal Register of regulations that effectuate these special requirements. Those regulations will be the subject of a rulemaking proceeding that will be initiated shortly.

Comprehensive Modernization takes a substantial rehabilitation approach to severely deteriorated projects. For each project approved for Comprehensive Modernization, all modernization needs should be fully met, without regard to the funding priorities which are normally applicable to modernization work items. The minimum standard for Comprehensive Modernization will be based on a modified version of HUD Minimum Property Standards (MPS) for Multifamily Housing (see 24 CFR Part 200, Subpart S), but work items that exceed the modified MPS also may be funded if they are justified by the needs of a particular project.

A limited number of projects will be selected for Comprehensive Modernization through a national competition. The most important selection factors will be the urgency of the project's needs, including the extent of substandard vacant units, and the Public Housing Agency's (PHA's) capability for completing the Comprehensive Modernization within a three-year period after project approval. Emphasis also will be placed on the prospects for the long-term viability of the project after completion of the Comprehensive Modernization and on the PHA's capability to carry out any needed management improvements.

A PHA will not be eligible for Comprehensive Modernization if it has any unexpended modernization funds approved in FY 1975 and prior fiscal years, unless HUD determines that the failure to expend the funds is due to circumstances beyond the PHA's control. Subject to this requirement, eligibility will be limited to PHA-owned, rental projects with 100 or more dwelling units and unfunded modernization needs (at the modified MPS level) averaging $5,000 or more per dwelling unit. Section 8, Section 23 and homeownership projects [Turnkey III and Mutual Help] will not be eligible for Comprehensive Modernization. In addition, eligibility will be limited to one project per PHA. However, a PHA may additionally propose the completion of rehabilitation already underway for one project previously funded for Targeted Rehabilitation under the Public Housing Urban Initiatives Program and requiring incremental additions for completion.

Comprehensive Modernization processing will begin with HUD Field Office determinations, in consultation with PHAs, of project eligibility. HUD Field Office and PHAs with eligible projects then will conduct on-site Joint Reviews and the PHAs will submit their Final Applications for Comprehensive Modernization to the HUD Field Offices. After completion of their reviews of the Final Applications, the HUD Field Offices will forward their funding recommendations to HUD Headquarters for review in accordance with the same criteria used by the HUD Field Offices. The Assistant Secretary for Housing-Federal Housing Commissioner then will make final funding decisions no later than September 30, 1980.

It is HUD's intent to continue Comprehensive Modernization in subsequent fiscal years so that, over a five-year period, the modernization needs of all severely deteriorated projects will be funded. However, future Comprehensive Modernization funding for a particular PHA will be contingent upon satisfactory progress in previously funded modernization and in effecting any needed management improvements. It is expected that experience in connection with FY 1980 Comprehensive Modernization will result in the further development of standards and procedures for implementation in FY 1981 and subsequent fiscal years.

Issued at Washington, D.C., March 12, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-8277 Filed 3-18-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Puyallup Indian Reservation, Washington; Ordinance Regulating the Sale and Possession of Intoxicating Beverages

March 13, 1980.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 18 U.S.C. 1161 (1976). I certify that the following Ordinance relating to the application of the Federal Indian Liquor Laws on the Puyallup Indian Reservation, Washington, was adopted on November 23, 1979, and amended February 26, 1980, by the Puyallup Tribal Council which has jurisdiction over the area of Indian country included in the Ordinance, reading as follows:

Rick Lavis,

Assistant Secretary—Indian Affairs.

Puyallup Tribal Council Ordinance No. 07911–23A

Whereas, the Puyallup Tribe has existed since creation as the Aboriginal people who are the owners and guardians of their land and waters; and

Whereas, the Puyallup Tribe as an independent sovereign nation, having historically negotiated with several foreign nations including the United States in the Medicine Creek Treaty; and

Whereas, the Puyallup Tribal Council is the governing body of the Puyallup Tribe in accordance with the authority of its sovereign rights as the Aboriginal owners and guardians of their land and waters, reaffirmed in the Medicine Creek Treaty, and their Constitution and By-Laws, as amended, approved by the Assistant Secretary of the Interior on the 1st day of June, 1970; and

Whereas, under Article VI, Section I (H), (K), (L), (M), and (R), Tribal Council is empowered to levy taxes, safeguard and promote the peace, promulgate and enforce ordinances, govern the conduct of tribal members, delegate any enumerated authority to subordinate committees and charter subordinate organizations for economic purposes; and

Whereas, 18 U.S.C. 1161 recognizes the authority of the Tribal Council to regulate transactions involving liquor in Indian country; and

Whereas, the current prohibition of liquor on the Puyallup Reservation has only been sporadically enforced in the past with the result that liquor transactions have been completely unregulated, subject to abuse; and

Whereas, the regulation of liquor on the Puyallup Reservation by the Puyallup Tribe will provde employment for Native Americans in this community, especially tribal members and generate funds for tribal government purposes as well as eliminate past unregulated practices; now therefore be it enacted by the Tribal Council of the Puyallup Tribe of Indians that, the following Puyallup Tribal Liquor Control Ordinance is hereby adopted as part of the modern laws of the Puyallup Tribe.

Pursuant to its powers as enumerated in tribal ordinnce number 07911–23A, the Puyallup Tribe of Indians duly enacted this Liquor Control Ordinance on November 23, 1979. It became effective on ————, 19—.

Certification

I hereby certify that the above Ordinance was duly enacted by the Puyallup Tribe Council on the 23d day of November, 1979; a quorum being present with a vote of 3 for, 0 against, 1 absention, and 1 not voting.

David Holler,

Secretary, Puyallup Tribal Council.

Attest:

Frank Wright, Sr.,

Vice Chair Acting Chairperson, Puyallup Tribal Council.

Section. 1. Findings and Purpose

1.1 The introduction, possession and sale of liquor on Indian Reservations have, since treaty time, been clearly recognized as matters of special concern to Indian tribes and to the United States' Federal Government. The control of liquor on reservations remains exclusively subject to their legislative enactments.

1.2 Beginning with the Treaty of Medicine Creek, 10 Stat. 1132, Article 9, to which the ancestors of the Puyallup Indian Tribe were parties, the Federal Government has respected this tribe's determinations and activities on the Puyallup Indian Reservation. At treaty time, this tribe's ancestors desired to exlude "ardent spirits" from their reservation; and Federal law currently prohibts the introduction of liquor into Indian country, (18 U.S.C. Sec. 1154), leaving tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. Sec. 1161).

1.3 Present day circumstances make a complete ban of liquor within the Puyallup Indian Reservation ineffective and unrealistic. At the same time, the need still exists for strict tribal regulation and control over liquor distribution.

1.4 The enactment of a tribal ordinance governing liquor sales on the Reservation and providing for exclusive purchase and sale through the tribal enterprise will increase the ability of the tribal government to control Reservation liquor distribution and possession, and at the same time, will provide an important source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

1.5 In order to provide for increased tribal control over liquor distribution and possession on the Reservation and to provide for an urgently needed additional revenue source, the Tribal Council of the Puyallup Indian Tribe hereby adopts this Liquor Ordinance.

Sec. 2. This Ordinance shall be known as the Puyallup Liquor Ordinance

Sec. 3. Relation to Other Tribal Laws

All prior ordinances and resolutions of the Puyallup Indian Tribe regulating, authorizing, prohibiting or in any way dealing with the sale of liquor are hereby repealed and of no further force and effect and no tribal business licensing law or other tribal law shall be applied in a manner inconsistent with the provisions of this ordinance.

Sec. 4. Definitions

The definitions of "Alcohol", "Liquor", "Sale", and "Sell", "Spirits" and "Wine", contained in the Revised Code of Washington, R.C.W. 66.04.010(1), (16), (27), (29), and (35) are hereby adopted.

4.1 "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly producted by the fermentation of distillation of grain, starch, molasses, or sugar, or other substances including all dilution and mixtures of this substance.

4.2 "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

4.3 "Sale" and "Sell" include exchange, barter, and traffic, and also include the selling or supplying or distributing, by any mean whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state.

4.4 "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural products containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

Sec. 5. Prohibitions

The introduction, purchase, sale, and dealing in liquor, other than in a manner authorized by this ordinance is prohibited within the exterior boundaries of the Puyallup Indian Reservation and it is hereby declared an offense under tribal law. The Federal Indian liquor laws are intended to remain applicable to any act or transaction which is not authorized by this ordinance and violators of this ordinance shall be subject to Federal prosecution as well as to legal action in accordance with tribal law. It is intended that possession of liquor by any person now prohibited by Federal law from possessing liquor shall be lawful so long as the possession is in conformity with this ordinance.

Sec. 6. Conformity With State Law

Tribal authorized liquor transactions shall comply with Washington State liquor law standards to the extent required by 18 U.S.C. 1161.

Sec. 7. Puyallup Liquor Distribution Agency Created

7.1 There is hereby created a liquor distribution agency. The Puyallup Tribal Council shall decide upon its formal designated name and whether it is to operate either independently or as a subdivision of another tribal division. This agency shall be constituted in function as part of the Puyallup Tribal Government.

7.2 The manager of this agency shall have the following powers and duties in regard to this agency;

(a) To manage this liquor agency for the benefit of the tribe.

(b) To purchase, in the name of the tribe, liquor products from wholesale distributors and distribute them to such tribal enterprise outlets as he deems appropriate.

(c) To establish, with the Council and subject to its approval, such administrative procedures that are necessary to govern the operation of the agency.

(d) To report and account to the Council at least twice a year regarding the operation and financial status of the agency. The Council and the manager shall establish the dates on which such accounting shall take place. The Council may require more frequent accounting if deemed necessary. The managers reports and all written reports, accounts and records of the Council's proceedings in regard to the liquor agency shall be available for inspection to any Puyallup Indian tribal member, upon demand.

(e) To hire and set the salaries of additional personnel, subject to Council approval, as he deems necessary to the successful operation of the agency.

(f) To supervise all agency employees.

(g) To purchase, with Council approval, and maintain the agency's real and personal property.

(h) To collect the Puyallup Indian Liquor Excise Taxes.

(i) To transfer all tax revenues to the tribal treasurer for deposit in the tribal tax fund, and to transfer to the tribal treasurer for deposit in the tribe's general fund all other revenue not reasonably foreseen as being required for the operation of the agency.

(j) To maintain all other agency revenues in a special account, under direction from the tribal treasurer. With the written approval of at least one council person, funds may be withdrawn from this account by the manager

for the wholesale purchase of liquor products to be sold pursuant to this chapter for payment of salaries and business expenses of employees of the agency, and for the purchase and upkeep of real and personal property required for the agency's operation.

(k) To set the retail price for liquor products, in cooperation with the Council.

(l) To obtain and maintain in full force and effect a policy of general liability insurance covering any owned or leased liquor outlet premises in an amount set by the Council. The policy shall contain the stipulation that the Puyallup Tribe shall be given 10 days notice of the proposed cancellation or expiration of such policy. Managers shall submit to the Council a certification of insurance from such policy and shall have available for inspection a complete copy of such policy.

(m) The manager shall be bonded for such additional amount and for such additional purposes as the Council shall determine to be appropriate in managing the liquor department.

Sec. 8. Sovereign Immunity Preserved

Nothing in this chapter is intended or shall be construed as a waiver of the sovereign immunity of the Puyallup Tribe. No manager or employee of the agency shall be authorized, nor shall he attempt, to waive the immunity of the tribe.

Sec. 9. Puyallup Liquor Commission

It is hereby created a Puyallup Liquor Commission. The members of the Tribal Council of the Puyallup Indian Tribe shall serve as the Puyallup Liquor Commission. The Commission is empowered to:

9.1 Administer this ordinance, by exercising general control, management, and supervision of all liquor sales, places of sale, and sales outlets as well as exercising all powers necessary to accomplish the purposes of this ordinance;

9.2 Adopt and enforce rules and regulations in furtherance of the purposes of this ordinance in the performance of administrative functions.

Sec. 10. Excise Tax Levy

10.1 There is hereby levied and shall be collected an excise tax upon each retail sale of liquor, except beer and wine, and whatever packages or container, in the amount of three (3) cents per fluid ounce or fraction thereof contained in such package or container. There is hereby levied and shall be collected an excise tax upon each retail sale of beer and wine in the original package in the amount of five percent (5%) of the selling price. Said taxes shall be added to the sales price of the liquor sold and shall be paid by the buyer to the Puyallup Liquor Distribution Agency (or by whatever name it shall be known) who shall collect the same and hold them in trust for the Puyallup Indian Tribe until deposited as provided in Section 7(i) of this ordinance. The taxes provided for herein shall be the only taxes applicable to activities of the Puyallup Liquor Distribution Agency.

10.2 These taxes which shall be deposited, through the tribal treasurer, as provided in Section 7(i), shall be used for the benefit of the reservation and Tribal community. In appropriating from these tax revenues, the Council shall give priority to:

(a) Strengthening tribal government, which shall include but not be limited to strengthening tribal court and law enforcement systems and the system for administering and enforcing this ordinance.

(b) Health, education, and other social services, and land acquisition and development needs.

(c) Enhancing equal business opportunities for tribal members and the Tribal Enterprise Division.

(d) Providing other reasonable and necessary services to tribal members.

The Council shall have discretion to determine which of the above priorities shall receive an appropriation and the amount of the appropriation for a given priority.

10.3 The manager shall keep such records as shall be sufficient for the tribal tax administrator to determine the amount of tax owing and shall complete tax returns in accordance with instruction from the tribal tax administrator.

10.4 Amendments to the amounts and type of taxes levied on reservation liquor dealings may be made from time to time by approval of the Puyallup Tribal Council, after consultation with the Liquor Distribution Agency manager.

Sec. 11. Penalty

Any person or entity selling, bartering, or manufacturing liquor without a tribal license, or otherwise violating this ordinance, shall be subject to a civil fine of not more than $500.00 for each violation. In addition, any persons or entity subject to criminal prosecution by the tribe who sells, barters, or manufactures liquor without a tribal license shall be subject to a fine of $500.00 and/or six months imprisonment for each separate violation, at the discretion of the tribal court and pursuant to all appropriate provisions of the Law and Order Code of the Puyallup Tribe of Indians.

Sec. 12. Severability

If any provision or application of this ordinance is determined by review to be invalid, such adjudication shall not be held to render such provision inapplicable to other person or circumstances.

Sec. 13. Effective Date

This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the Federal Register.

Sec. 14. Amendments

All provisions of this ordinance and regulations promulgated by the Puyallup Liquor Commission are subject to proper revision, repeal, or amendment.

Sec. 15. Jurisdiction

The jurisdiction of this ordinance shall extend only to those activities regulated by said ordinance conducted on trust property within the exterior boundaries of the Puyallup Reservation, any other provision of this ordinance or other tribal law notwithstanding.

[FR Doc. 80-8325 Filed 3-18-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Utah; Redelegation of Authority

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 6177 on Friday, January 24, 1980 (FR Doc. 80-2428 filed 1-24-80; 8:35 a.m.), authorizes the Bureau of Land Management State Directors the opportunity to redelegate the authority to grant, renew, reassign or revoke rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of 1976 to Bureau of Land Management District and Area Managers.

That authority is hereby redelegated to Utah District Managers.

This notice has no other effect on the provisions of F.R. Doc. 80-2428.

EFFECTIVE DATE: This redelegation will become effective April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Utah State BLM Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 (801) 524-5326.

Dated: March 7, 1980.

Gary J. Wicks,

State Director.

[FR Doc. 80-8320 Filed 3-18-80; 8:45 am]

BILLING CODE 4310-84-M

[W-71161, W-71161-A and W-71161-B]

Wyoming; Application

March 10, 1980.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Chevron U.S.A. Inc. filed an application for a right-of-way to construct their Carter Creek natural gas processing facility and appurtenant utility corridor for the purpose of constructing facilities for condensate separation, dehydration, sweet gas compression, hydrogen sulfide removal and sulfur recovery. These facilities would affect the following described public lands in Uinta County:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 119 W.,
Secs. 6 and 18.
T. 18 N., R. 120 W.,
Secs. 12, 24 and 26.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be

approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-8319 Filed 3-18-80; 8:45 am]

BILLING CODE 4310-84-M

[DES 80-12]

Proposed Geothermal Leasing Within the Coso Known Geothermal Study Area, Inyo County, Bakersfield District, Calif.; Availability of Draft Environmental Impact Statement (DEIS):

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement discussing anticipated impacts of a proposed geothermal leasing program for an area within the Coso Known Geothermal Resource Area, in the Bakersfield District, Inyo County, California. The proposal involves competitive and noncompetitive geothermal leasing of the Federal lands in a 72,640 acre area centered on the Coso Known Geothermal Study Area.

Comments on the draft environmental impact statement will be solicited from public agencies, interested individuals and organizations. A public meeting to receive input will be held on May 1, 1980, at 7:00 p.m. in the Lone Pine Townhall.

Written comments on the DEIS will be accepted until May 12, 1980. Comments should be addressed to the District Manager, Bakersfield District Office, U.S. Federal Building, Rm 311, 800 Truxtun Avenue, Bakersfield, California 93301.

For further information contact: Janis Bowles, 805-861-4191.

Copies of the draft environmental impact statement are available upon request from the following offices:

California State Office (911), Bureau of Land Management, 2800 Cottage Way, Rm. E-2841, Sacramento, California 95825, Telephone (916) 484-4541.

Bakersfield District Office, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301, Telephone (805) 861-4191.

Copies of the draft environmental impact statement are available for public reading and review at the two above locations plus the following:

Office of Information, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240, Telephone (202) 343-5717.

Kern County Beale Memorial Library, 1415 Truxtun Avenue, Bakersfield, California 93001.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved March 14, 1980.

James W. Curlin,

Deputy Assistant, Secretary of the Interior.

[FR Doc. 80-8329 Filed 3-18-80; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 80-11]

Bannock-Oneida Grazing Draft Environmental Impact Statement; Notice of Public Hearings and DEIS Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Hearings on Bannock-Oneida Grazing DEIS.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement for a proposed grazing management program for the Bannock-Oneida Resource Area of the Burley District in southeastern Idaho. The proposal involves changes in initial stocking rates, implementing improved grazing systems and installation of certain range improvements. Approximately 430,000 acres of public lands are involved. Copies of the draft environmental impact statement are available for inspection at the following locations:

Burley District Office, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, Telephone: (208) 678-5514.

Idaho State Office, Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 384-1770.

Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

A limited number of single copies may be obtained from the Idaho State Director or the Burley District Manager, Bureau of Land Management, at the above addresses.

Notice is also given that public hearings will be held at: (1) Malad County Courthouse, Malad, Idaho, April 15, 1980, at 7 p.m. MST; and (2) Holiday Inn of Pocatello, Pocatello, Idaho, April 16, 1980, at 7 p.m. MST.

DATES: April 15, 1980—Public hearing in Malad; April 16, 1980—Public hearing in Pocatello; April 30, 1980—Deadline for receiving written testimony.

ADDRESS: Written comments on the Draft EIS should be sent to: Tim Hartzell, Team Leader, BLM Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Tim Hartzell or Nick Cozakos, BLM Burley District Office, Telephone: (208) 678-5514.

SUPPLEMENTARY INFORMATION: The public hearings will be conducted by the Associate State Director, Bureau of Land Management. Individuals wishing to testify may do so by appearing at a hearing place as previously specified. Persons wishing to give testimony will be limited to ten minutes, with written submissions invited. Prior to giving testimony at public hearings, individuals or spokesmen are requested to complete a hearing registration form. Registration forms may be obtained by contacting the Burley District Manager at the above address.

Dated: March 13, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-8265 Filed 3-18-80; 8:45 am]

BILLING CODE 4310-84-M

Water and Power Resources Service

[INT-FES 80-10]

Upalco Unit, Central Utah Project; Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement on a proposed water development plan that would alleviate existing shortages on both Indian and non-Indian irrigated farmland in Duchesne County in northcentral Utah and, secondarily, satisfy projected municipal and industrial water needs in nearby towns, provides flood control, improve recreation opportunities, and mitigate stream fishery and wildlife impacts that would occur with development.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Water and Power Resources Service, Washington, DC 20240, Telephone: (202) 343-4991

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234-3019

Office of the Regional Director, Water and Power Resources Service, Federal Building, 125 South State Street, Salt Lake City, UT 84147, Telephone: (801) 524–5404
Central Utah Projects Office, Water and Power Resources Service, P.O. Box 1338, Provo, UT 84601

Single copies of the statement may be obtained on request to the Commissioner of Water and Power Resources Service or the Regional Director. Copies will also be available for inspection in libraries in the project vicinity.

Dated: March 12, 1980.

Orrin Ferris,

Acting Commissioner.

[FR Doc. 80-8061 Filed 3-18-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. 14]

March 5, 1980.

MC 200 (Sub-440TA) filed January 8, 1980. Applicant: RISS INTERNATIONAL CORPORATION, Representative: H. Lynn Davis, 903 Grand Avenue, Kansas City, MO 64106. Authority sought to operate as a *Common Carrier* by motor vehicle in Interstate or Foreign Commerce, over regular routes transporting General Commodities, except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, Commodities in bulk, and those requiring special equipment, between the points and routes as follows:

(1) Between Louisville, KY and Atlanta, GA: From Louisville, KY over Interstate Hwy 65 to Nashville, TN, then over Interstate Hwy 24 to junction Interstate Hwy 59, then over Interstate Hwy 59 to Chattanooga, TN, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route.

(2) Between St. Louis, MO and Atlanta, GA: From St. Louis, MO over Interstate Hwy 64 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction U.S. Hwy 68, then over U.S. Hwy 68 (or Interstate Hwy 24 when this segement is completed) to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 59, then over Interstate Hwy 59 to Chattanooga, TN, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route.

(3) Between Louisville, KY and Montgomery, AL: From Louisville, KY over Interstate Hwy 65 to junction U.S. Hwy 31, then over U.S. Hwy 31 (or Interstate Hwy 65 when this segement is completed) to junction Interstate Hwy 65, then over Interstate Hwy 65 to Montgomery, AL, and return over the same route.

(4) Between St. Louis, MO and Montgomery, AL: From St. Louis, MO over Interstate Hwy 64 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction U.S. Hwy 68, then over U.S. Hwy 68 (or Interstate Hwy 24 when this segement is completed) to junction Interstate Hwy 24, then over Interstate Hwy 24 to Nashville, TN, then over Interstate Hwy 65 to junction U.S. Hwy 31, then over U.S. Hwy 31 (or Interstate Hwy 65 when this segement is completed) to junction Interstate Hwy 65, then over Interstate Hwy 65 to Montgomery, AL, and return over the same route.

(5) Between St. Louis, MO and New Orleans, LA: From St. Louis, MO over Interstate Hwy 55 to junction U.S. Hwy 51, then over U.S. Hwy 51 (or Interstate Hwy 55 when this segement is completed) to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, LA, and return over the same route.

(6) Between Joplin, MO and New Orleans, LA: From Joplin, MO over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, LA and return over the same route.

(7) Between Dallas, TX and New Orleans, LA: From Dallas, TX over Interstate Hwy 20 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, LA, and return over the same route.

Restriction: The service in the 7 routes described above is restricted against service at any intermediate points, and no service is authorized between the terminal except for the purpose of interline only.

Supporting Shippers: Riss International Corporation, 903 Grand Avenue, Kansas City, MO 64106 and Johnson Motor Lines, Inc., P.O. Box 31577, Charlotte, N.C. 28231. Corresponding ETA and Permanent applications have concurrently been filed. Send protests to Vernon Coble, Dist. Supv., 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 730 (Sub-494TA), filed January 22, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 N. Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). *Chemicals, in bulk,* from Pocatello, ID and points within 5 miles thereof to points in CO, MT, NV, OR, UT and WY, for 180 days. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 4941 (Sub-87TA), filed November 23, 1979 and previously noted in the FR of January 16, 1980 republished as corrected this issue. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Mr. Russell S. Callahan, 1093 North Montello Street, Brockton, MA 02403. *Paper and paper products, plastic materials, furniture, and*

materials, equipment and supplies used in the manufacture and distribution thereof, (except commodities in bulk), between the facilities of Scott Paper Company at points in Delaware, Maine, New Jersey, New York, Ohio, Pennsylvania and Virginia on the one hand, and, on the other, points in Connecticut, Delaware, Massachusetts, Maryland, Maine, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia and the District of Columbia, for 180 days. Supporting Shipper: Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to John Thomas, District Supervisor, ICC, 150 Causeway Street, Boston, MA 02114. The purpose of this republication is to clarify the origins and destinations.

MC 11220 (Sub-198TA), filed January 14, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. (1) Nonferrous metals from the facilities of ASARCO Incorporated and Federated Metals Corporation, subsidiary of ASARCO Incorporated, located at or near Amarillo, Corpus Christi, and Houston, TX; Omaha, NE; Glover, MO; Sand Springs, OK; Whiting, IN; Newark and Trenton, NJ; San Francisco, CA; Hillsboro, IL and Columbus, OH to points in the United States (except AK and HI); and (2) Materials and supplies used in the manufacture and distribution of nonferrous metals from points in the United States (except AK and HI) to the origin points named in (1) above. Restricted to the transportation of shipments originating at or destined to the named facilities. Supporting Shipper(s): ASARCO Incorporated 611 Olive St., Suite 1755, St. Louis MO 63101. Send protests to: Diana J. Porter, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 16831 (Sub-36TA), filed December 11, 1979. Applicant: MID SEVEN TRANSPORTATION COMPANY, 2323 Delaware Ave., Des Moines, IA 50317. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. (1) *lawn mowers, snowblowers, garden tractors, shredders, and tillers, and* (2) *parts and accesories for the commodities in part (1)* between Brillion, WI, and Des Moines, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ariens Company, 2725 Second Ave., Des Moines, IA 50313. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 16831 (Sub-37TA), filed December 17, 1979. Applicant: MID SEVEN TRANSPORTATION COMPANY, 2323 Delaware Ave., Des Moines, IA 50317. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. *Iron and steel articles* from the facilities of Nucor Corporation at or near Norfolk, NE, to points in IL, IN, MO, WI, and those in IA on and east of U.S. Highway 169, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nucor Corporation, P.O. Box 59, Norfolk, NE 68701. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 18121 (Sub-31TA), filed October 25, 1979. Applicant: ADVANCE TRANSPORTATION CO., P.O. Box 719, Milwaukee, WI 53201. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *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 Rockford, IL, and Portage, WI, serving the intermediate points of Beloit, Janesville, Edgerton, Madison, Arlington and Poynette. From Rockford over U.S. Hwy 51 to Portage and return over the same route. (2) Between Beloit, WI, and Milwaukee, WI, serving all intermediate points. From Beloit, WI, over U.S. Hwy 51 to Milwaukee and return over the same route. (3) Between Harvard, IL, and Janesville, WI, serving all intermediate points. From Harvard over U.S. Hwy 14 to Janesville and return over the same route. (4) Between Richmond, IL, and Madison, WI, serving all intermediate points. From Richmond over U.S. Hwy 12 to Madison and return over the same route. (5) Between Janesville, WI, and Racine, WI serving all intermediate points. From Janesville over U.S. Hwy 11 to Racine and return over the same route. (6) Between Lake Geneva, WI and Milwaukee, WI serving all intermediate points. From Lake Geneva over WI Hwy 36 to Milwaukee, WI and return over the same route. (7) Between North Chicago, IL, and Milwaukee, WI, serving all intermediate points. From North Chicago over IL Hwy 131 to Jct IL Hwy 173 to the WI–IL state line, then over WI Hwy 32 from the WI–IL state line to Milwaukee and return over the same route. (8) Between Racine, WI, and Whitewater, WI, serving all intermediate points. From Racine, WI over WI Hwy 20 to Whitewater and return over the same route. (9) Between Milwaukee, WI and Madison, WI serving all intermediate points. From Milwaukee over U.S. Hwy 18 to Madison and return over the same route. (10) Between Madison, WI and Milwaukee, WI serving all intermediate points. From Madison over I–94 to Milwaukee and return over the same route. (11) Between Shorewood, WI and Portage, WI serving all intermediate points. From Shorewood over WI Hwy 190 to Pewaukee, WI, then over U.S. Hwy 16 to Portage, WI and return over the same route. (12) Between Watertown, WI and Madison, WI serving all intermediate points. From Watertown over WI Hwy 19 to Madison and return over the same route. (13) Between Grafton, WI and Arlington, WI serving all intermediate points. From Grafton over WI Hwy 60 to Arlington, WI and return over the same route. (14) Between Port Washington, WI and Beaver Dam, WI serving all intermediate points. From Port Washington over WI Hwy 33 to Beaver Dam and return over the same route. (15) Between Milwaukee, WI and Manitowoc, WI serving all intermediate points. From Milwaukee over I–43 to Manitowoc and return over the same route. (16) Between Green Bay, WI and Milwaukee, WI serving all intermediate points. From Milwaukee over WI Hwy 57 to Green Bay and return over the same route. (17) Between Sheboygan, WI and Plymouth, WI serving all intermediate points. From Sheboygan, WI over WI Hwy 23 to Plymouth and return over the same route. (18) Between Oconomowoc, WI and Mayville, WI serving all intermediate points. From Oconomowoc over WI Hwy 67 to Mayville and return over the same route. (19) Between Fort Atkinson, WI and Jct. Hwy 33 serving all intermediate points. From Fort Atkinson over WI Hwy 26 to Jct. WI Hwy 33 and return over the same route. (20) Between Kenosha, WI and Burlington, WI serving all intermediate points. From Kenosha over WI Hwy 50 to Jct. WI Hwy 83, then over Hwy 83 to Burlington and return over the same route. Service in connection with Route (1) through (20), *supra,* is authorized to all points in Kenosha, Racine, Walworth, Jefferson, Waukesha, Dodge, Washington and Ozaukee Counties in connection with said carrier's regular route operations. An underlying ETA seeks 90 days authority. There are 106 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Gail Daugherty, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 35320 (Sub-558TA), filed January 31, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (address same as applicant). *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 Minneapolis, MN, and its commercial zone, on the one hand, and, on the other, Laredo, TX and its commercial zone and Eagle Pass, TX and its commercial zone, restricted to traffic originating at or destined to the facilities of the Longyear Company, for 180 days. Supporting shipper(s): Longyear Company, P.O. Box 1368, Minneapolis, MN 55440. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Suite 600, Fort Worth, TX 76102.

MC 44801 (Sub-15TA), filed December 28, 1979. Applicant: DICK HARRIS AND SON TRUCKING CO., INC., 4000 Harris Lane, Lynchburg, VA 24501. Representative: Morton E. Kiel, 2 World Trade Center, New York, NY 10048. *Printed matter,* from Lynchburg, VA to West Nyack and Rye, NY and Newark, DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meredith/Burda, Inc., 4201 Murray Pl., Lynchburg, VA 24506. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 53841 (Sub-42TA), filed January 17, 1980. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State St., Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Aluminum ingots and zinc alloy ingots* (excluding commodities in bulk) from Maple Hts., OH to points in CT, IN, IL, NJ, NY and PA, for 180 days. Supporting shipper(s): Aluminum Smelting & Refining Co., Inc., 5463 Dunham Rd., Maple Hts., OH 44137. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 56640 (Sub-47TA), filed January 18, 1980. Applicant: DELTA LINES, INC., 333 Hegenberger Road, Oakland, CA 94621. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Foodstuffs, and materials, equipment and supplies used in the manufacture, distribution and sale of foodstuffs* (except in bulk) from the facilities of Ocean Spray Cranberries, Inc. at or near Markham and Aberdeen, WA to points in CO and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Star Route, box 195, Aberdeen, WA 98520. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 59570 (Sub-45TA), filed December 28, 1979. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: Hecht Brothers, Inc., 2075 Lakewood Road, Toms River, NJ 08753. *Sand, gravel, silica powder, abrasive materials, bricks, glass beads, reclaimed dust, products mined, sand blasting materials, granules, stones, asphalt mix, plaster mix, gravel mix, mortar mix, minerals, grits, asphalt mix sealer, concrete bonding compounds, pebbles, grinding blocks, and products thereof, and materials, supplies and equipment* used in the manufacturing, distribution and use of the foregoing named products, except liquid commodities in bulk. Between points in NJ on the one hand on on the other NY, PA, CT, MA, RI, DE, MD, VA and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New Jersey Pulverizing Company, 390 North Broadway, Jericho, NY 11753. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 61231 (Sub-169TA), filed December 17, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. *Iron and steel articles* from the facilities of Nucor Corporation at or near Norfolk, NE, to points in AR, AZ, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NM, ND, OH, OK, SD, TN, TX, WA, WI, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nucor Corporation, P.O. Box 59, Norfolk, NE 68701. Send protests to: Herbett W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 61440 (Sub-186TA), filed January 2, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Common* Carrier: *Regular* route: *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), serving the facilities of General Tire & Rubber Co. at or near Macon, GA, as an off route point in connection with carrier's otherwise regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The General Tire & Rubber Company, 1 General Street, Akron, OH 44329. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 61620 (Sub-19TA), filed December 13, 1979. Applicant: M & G TRANSPORTATION CO., INC., Route 3, Box 234, Gloucester, Va 23061. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, Va 24168. *Paper and paper products, and woodpulp,* from West Point, Va to points in DC, DE, MD, NJ, NY, PA, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Chesapeake Corp. of Virginia, P.O. Box 311, West Point, VA 23181. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 75281 (Sub-14TA), filed October 24, 1979. Applicant: BOOTHEEL TRANSPORTATION COMPANY, P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326. *Paper and paper products,* from the facilities of Westvaco Corporation, at or near Wickliffe, KY to points in FL, GA, NC, SC, MD, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westvaco Corporation, 299 Park Ave., New York, NY. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 75281 (Sub-15TA), filed November 8, 1979. Applicant: BOOTHEEL TRANSPORTATION COMPANY, P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30326. *Such commodities as are dealt in by manufacturers of pipe, conduit, wire, cable, cord sets, plastic materials, and materials, equipment and supplies* used in the conduct of such business (except commodities in bulk, in tank vehicles), between the plantsite & warehouse facilities of Triangle PWC, Inc., a subsidiary of Triangle Industries, Inc., at or near Jewett City and New Brunswick, NJ, on the one hand, and, on the other, points in GA, FL, MI, IL, IN, MO, TN, AR, OK, TX, NM, CA, KS, NE, IA, CO, MN, ND, SD, AZ, MT, WY, NV, ID, WI, WA, MS, LA, UT, KY, OH, PA, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Triangle PWC, Inc., a subsidiary of Triangle Industries, Inc., P.O. Box 711, New Brunswick, NJ 08903.Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 75281 (Sub-16TA), filed December 4, 1979. Applicant: BOOTHEEL TRANSPORTATION COMPANY, P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE, Atlanta, GA 30326. Carpet and rug pads, padding and cushioning, and materials, equipment, and supplies used in the manufacture and installation of such commodities, from the facilities of Ludlow Corporation at or near Cape Girardeau,

MO to points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ludlow Corporation, Cape Girardeau, MO 63701. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 75830 (Sub-19TA), filed December 19, 1979. Applicant: INTER-CITY TRANSPORT & MOTOR COMPANY, INC., P.O. box 88, Buckhannon, WV 26021. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Contract carrier-irregular routes: *Footstuffs and materials, equipment and supplies used in the manufacture and sale of foodstuffs* (except commodities in bulk), between Bluffton, IN, on the one hand, and on the other, Akron, Bedford Heights, Cincinnati, Dayton, Groveport, Toledo and Youngstown, OH; Aston, Carnegie, Cornwell Heights, Ephrata, Mechanicsburg, Philadelphia and Pittsburgh, PA; Ayre and Framingham, MA; Batavia, Hauppage, Henrietta, Jamestown, Latham and Syracuse, NY; Manchester, and Stratford, CT; Edison, Moonachie and Rosenhayn, NJ; Manassas, Norfolk, Ravensworth and Bluefield, VA; and Chicago, IL and Grand Rapids, MI, restricted to a transportation service to be performed under a continuing contract, or contracts, with Keebler company, Elmhurst, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keebler Company, One Hollow Tree Lane, Elmhurst, IL 60126. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 75840 (Sub-133TA) filed January 22, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) metal scrap, from the facilities of United Metal Recyclers, located at or near Kernersville, NC, to points in OH, NY, NJ, GA, PA and SC; (2) plastic film, from the facilities of Southern Film Extruders, Inc., located at or near High Point, NC, to Cincinnati, Cleveland, Toledo, Wickliffe, Marlboro, Youngstown and Doylestown, OH; Paoli, Pa; and Rochester, NY; (3) plastic cups or tumblers, from the facilities of Gallos Plastics, Inc., at or near Winston-Salem, NC, to points in GA; (4) agricultural implements and parts, from the facilities of Clarke-Gravely Corp., located at or near Clemmons, NC, to points in OH, WV, PA, and NJ; (5) boots, shoes, and related articles, from the facilities of McRae Industries, Inc., located at or near Mt. Gilead, NC, to points in PA, NY, OH, NJ, and MD; (6) textile products, from the facilities of Wade Manufacturing Co. located at or near Wadesboro, NC, to points in NY, PA, NJ and DE; (7) textile products, from the facilities of Burlington Industries, Inc., located at or near Caroleen, NC, and Neuse, NC to points in NJ and NY; (8) aluminum scrap, from the facilities of Stanley Metal Corp., in NC to points in OH, PA, NJ, NY, VA, MD, DE and GA; (9) plastic film or sheeting, from the facilities of Alpha Plastics Corp., located at or near Hamlet, NC, to points in OH, NY, PA, GA, NJ and DE; (10) scrap metal and material, from the facilities of Levin Brothers, Inc., at points in NC, to points in OH, NJ, NY, PA, and GA; (11) plastic bottle carriers and can carriers, from the facilities of Hi-Cone, Division of ITW, located at or near Zebulon, NC, to points in OH, NJ, NY, GA, MD, VA, and PA; (12) textiles and textile products, from the facilities of Armstrong Cork Company, located at or near Charlotte, NC, to Marietta, PA; (13) ceramic tile and quarry tile, from the facilities of Mid-State Tile Company, located at or near Lexington and Mt. Gilead, NC, to Staten Island, NY and Port Chester, NY; (14) aluminum foil, from the facilities of Republic Foil Company, located at or near Salisbury, NC, to points in VA, PA, NJ, NY and OH: (15) plastics and chemicals from the facilities of Borden, Incorporated, located at or near Fayetteville, NC, to points in VA, WV, MD, OH, DE, PA, NY, NJ, and DC; (16) plastics from the facilities of FMC Corporation, located at or near Fayetteville, NC to Downingtown, PA; (17) freight, all kinds, from the facilities of Montgomery Ward & Company, located at or near Charlotte, NC, to Albany, NY; (18) aluminum scrap, copper, brass, and bronze scrap, from the facilities of Lee Iron & Metal Co., located at or near Sanford, NC, to points in OH, NY, NJ, PA and GA; (19) fire extinguishers and related articles, from the facilities of Walter Kidde & Company, located at or near Mebane, NC, to points in GA and NJ; (20) plastic articles, NOI, from the facilities of Tuscarora Plastics, Inc., located at or near Durham, NC, to points in GA; (21) chemicals, NOI (except commodities in bulk, in tank vehicles), from the facilities of Diamond Shamrock Corp., located at or near Charlotte and Castle Hayne, NC, to points in OH, WV, MD, VA, DE, PA, NY, NJ, and DC; and, (22) plastics from the facilities of Rohm Has, located at or near Fayetteville, NC, to Downingtown, PA. Supporting shipper(s): There are 21 statements in support attached to this application which may be examined at the ICC Washington, D.C., or copies of which may be examined in the field office named below. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 82861 (Sub-20TA), filed January 21, 1980. Applicant: BROOKS TRUCK LINE, INC., 609 14th Street S.E., Puyallup, WA 98371. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. *Lumber, lumber products, plywood and particleboard*, between points in WA, OR, ID, MT and CA, and between those points on the one hand, and, on the other, Ports of Entry on the U.S.-Canada international boundary line located in WA, ID and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fred Tebb & Sons, Inc., 1906 Marc St., Tacoma, WA 98421, Girard Wood Products, 127 7th St. S.E., Puyallup, WA 98371. Brady International Hardwoods Co., 1244 Alexander Ave., Tacoma, WA 98421, Woodlam, Inc., 1476 Thorne Road, Tacoma, WA 98421. Send protests to: Hugh H. Chaffee, D/S, ICC, 858 Federal Building, Seattle, WA 98174.

MC 85621 (Sub-10TA), filed January 16, 1980. Applicant: VANN EXPRESS, INC., 620 Line Street, Attalla, AL 35954. Representative: R. Kent Henslee, 754 Chestnut Street, Gadsden, AL 35902. *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, moving in express service. Between Chattanooga, TN, and its commercial zone, on the one hand, and, on the other, Birmingham, AL, over Interstate 24, U.S. Hwy 72, and AL Hwy 79. Between Chattanooga, TN, and its commercial zone, on the one hand, and on the other, Birmingham, AL, and its commercial zone, over U.S. Hwy 11, Interstate 59, and Interstate 24. Between Trenton, GA, and Birmingham, AL, over GA Hwy 143 and AL Hwy 75. Between Guntersville, AL, and Gadsden, AL, over U.S. Hwy 431. Supporting shipper(s): There are approximately 76 shippers supporting the applications. Statements may be examined in the Washington, DC, office or in the Birmingham field office. Send protests to: Mabel E. Holston, T/A, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

Note.—Applicant seeks to serve off-route points within ten miles of the regular routes and the off-route points of Centre and Piedmont, AL, and all intermediate points within the above-described regular-route system. Applicant intends to tack the above authority with existing regular route authority at all common radial points to serve all points in the regular-route system.

MC 97310 (Sub-37TA), filed January 18, 1980. Applicant: SHARRON MOTOR LINES, INC., P.O. Box 5636, Meridian, MS 39301. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203. Common carrier; *regular route; General commodities (except Classes A and B explosives, commodities in bulk, and commodities which because of size or weight require the use of special equipment)* serving all intermediate points in AL lying on the three routes between Birmingham and Memphis, TN, pursuant to existing Sub 24TA; (a) from Birmingham over US Hwy 31 and I–65 to Athens, AL, then over US Hwy 72 to Memphis and return over the same route; (b) from Birmingham over US Hwy 78 to Memphis, and return over the same route; and (c) from Birmingham over US Hwy 11 and I–59 and I–20 to Tuscaloosa, AL, then over US Hwy 82 to Columbus, MS, then over US Hwy 45 to Tupelo, MS, then over US Hwy 78 to Memphis and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline with other carriers at Decatur, AL. Supporting shipper(s): There are 67 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C., or copies of which may be examined in the field office named below. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 103051 (Sub-483TA), filed January 28, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Ammonium liginin sulfonate, in bulk, in tank vehicles,* from New Johnsonville, TN to Henderson, KY, for 180 days. Supporting shipper(s): International Multifoods Corp., 1200 Multifoods Building, Minneapolis, MN 55402. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 106401 (Sub-82TA), filed January 11, 1980. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Roger W. Rash (same as above). *Lighting fixtures and parts for lighting fixtures* from the facilities of Lithonia Lighting, Div. of National Service Industries, at or near Cochran and Conyers, GA to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lithonia Lighting, Div. of National Service Industries, P.O. Box A, Conyers, GA 30207. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 110541 (Sub-19TA), filed December 10, 1979. Applicant: MARK E. YODER, INC., P.O. Box 346, Schuylkill Haven, PA 17972. Representative: Christian V. Graf, 407 N. Front St. Harrisburg, PA 17101. *Petroleum coke, in dump vehicles,* from facilities of Mobile Oil Refinery at or near Paulsboro, NJ to the plantsite of Pennsylvania Power and Light Company in Holtwood (Martic Township), PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennsylvania Power & Light Co., Two N. 9 St., Allentown, PA 18101. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 111231 (Sub-299TA), filed January 16, 1980. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. (1) *Material handling equipment and articles used or dealt in by manufacturers and jobbers of material handling equipment* from Ouachita County, AR, on the one hand, to all points and places in TX, LA, OK, and MS on the other hand. (2) *reworked material handling equipment, material, equipment, and supplies used in the manufacture of material handling equipment* from all points and places in TX, LA, OK, and MS, on the one hand, to Ouachita County, AR, on the other hand; for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): C & F Wood Products, P.O. Box 3071, East Camden, AR. Send protests to: Ruth Allport, TCS, ICC, 411 W. 7th., Suite 600, Ft. Worth, TX 76102.

MC 111720 (Sub-23TA), filed August 6, 1979. Applicant: QUASAR EXPRESS, INC., P.O. Box 40, Sioux Falls, SD 57101. Representative: Lyle A. Clemetson (same address as applicant). *Contact carrier:* irregular routes: *Meat, meat products and meat by-products* from the facilities of Iowa Beef Processors, Inc. at or near Dakota City, NE to points in IN, KY, MI and OH for the account of Iowa Beef Processors for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper)s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 113651 (Sub-335TA), filed Jan. 7, 1980. Applicant: INDIANA REFRIGERATOR LINES, P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Henry Higgs (address same as applicant). *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk.)* from the facilities utilized by John Morrell & Co. at or near Montgomery, AL and Shreveport, LA to points in AL, CT, DE, FL, GA, IL, KY, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and DC. Restricted to the transportation of traffic originating at the facilities of John Morrell & Co. for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Transportation Assistant, ICC 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 113981 (Sub-9TA), filed February 1, 1980. Applicant: VEGAS TRUCKING COMPANY, 2853 Cedar Street, Las Vegas, NV 89104. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Common carrier:* regular routes:- *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, petroleum products in bulk, and commodities requiring special equipment, between Los Angeles, CA and Las Vegas, NV, serving all intermediate points in NV, the off-route points in CA within the Los Angeles Basin Territory as described below and the off-route points in Nye County, NV from Los Angeles, CA over Interstate Hwy 10 to the junction of Interstate Hwy 15, then over Interstate Hwy 15 to Baker, Ca then over California State Hwy 127 to Shoshone, CA then over California State Hwy 178 to the California-Nevada line, over Nevada State Hwy 52 to Pahrump, NV then over Nevada State Hwy 16 to junction of Interstate Hwy 15, and over Interstate Hwy 15 to Las Vegas, NV, and return over the same route.

Note.—Applicant is requesting authority to serve the Commercial Zone of Las Vegas, NV and interline with other carriers at Los Angeles, CA and Las Vegas, NV, for 180 days. Supporting shipper(s): There are 19 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. J. Huetig, DS, I.C.C. 705 N. Plaza Street, Carson City, NV 89701.

MC 115331 (Sub-528TA), filed December 13, 1979. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt (same as above). *Silica sand,* in bulk, from Festus, MO to Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Martin Marietta Aggregates, 110 E. Main St., Rockton, IL 61072. Send protests to: P. E. Binder, DS,

ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 114211 (Sub. 448TA), filed January 3, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same address as applicant). *Materials and suplies used in the manufacture and distribution of cast iron products* (except commodities in bulk) from points in and west of ND, SD, NE, KS, CO, and NM to points in Pottawattamie County, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Pipe Products Co., 2000 Spring Rd. Oak Brook, IL 60521. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114211 (Sub. 448TA), filed December 3, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same address as applicant). *Such commodities as are dealt in or used by agricultural equipment dealers and manufacturers* (except commodities in bulk) from Moundridge, KS, to points in IA, IL, WI, MO, WY, CO, NE, NM, TX, OK, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bradbury Company, Inc., P.O. Box 667, Moundridge, KS 67107. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114890 (Sub-104TA), filed January 28, 1980. Applicant: COMMERCIAL CARTAGE CO. 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Copper chloride solutions, copper nitrate solutions, and copper tetra amine solutions, in bulk, in tank vehicles,* from Austin, TX; Minneapolis, MN; Chicago, IL; and Los Angeles and points in its commercial zone, San Francisco and points in its commercial zone, and Santa Ana, CA, to the facilities of International Metal Recycling Corp. at or near Casa Grande, AZ, for 180 days. Underlying ETA filed. Supporting shipper(s): International Metal Recycling Corp., P.O. Box 573, Casa Grande, AZ 85222. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Suite 600, Fort Worth, TX 76102.

MC 115331 (Sub-537TA), filed January 17, 1980. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, MO 63122. *Alcohol, neutral spirits, distilled spirits, in bond; denatured and industrial alcohol, in bulk* from Jacksonville, FL; Columbus, OH; Merrimack, NH and Williamsburg, VA to points in the U.S. in and east of the States of ND, SD, NE, KS, OK, TX and points in CA, CO, and WA for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Chemical Interchange Co., 11 S. Meramec, Suite 1104, St. Louis, MO 63105. Send protests to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Ft. Worth, TX 76102.

MC 115570 (Sub-34TA), filed January 11, 1980. Applicant: WALTER A JUNGE, INC., 3818 S.W. 84th St., Tacoma, WA 98491. Representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Such commodities as are dealt in by grocery and food business houses (except commodities in bulk and those moving in vehicles equipped with mechanical refrigeration)* from the facilities of The Procter & Gamble Distributing Company at Los Angeles, Sacramento, Oxnard and Modesto, CA to points in OR and WA, for 180 days. Supporting shipper(s): The Protecter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 115840 (Sub-119TA), filed January 29, 1980. Applicant: COLONIAL FAST FREIGHT LINES, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler, (same address as applicant). *Aluminuim, Fiberglass and Iron and Steel Articles,* between the plantsite and warehouse facilities utilized by IKG Industries located at or near Charlotte, NC; Gulfport, MS; Nashville, TN; Kansas City, KS; Philadelphia and Easton, PA; and Long Island, NY, on the one hand, and, on the other, points in the U.S. in and east of TX, OK, KS, MO, IL and WI, for 180 days. Supporting shipper(s): IKG Industries, 201 Fatherland St., Nashville, TN 37202. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116881 (Sub-5TA), filed November 27, 1979. Applicant: CLINTON H. MILLER, d.b.a. C. H. MILLER TRANSPORTATION, P.O. Box 1776, Oroville, CA 95965. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Treated and untreated poles, piling, lumber and wood products* between points in Butte County, CA on the one hand, and points in OR and AZ on the other hand, for 180 days. Supporting shipper(s): D. G. Shelter Products, P.O. Box 1947, Oroville, CA 95695; Koppers Co., Inc., P.O. Box 351, Oroville, CA 95965. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 119741 (Sub-258TA), filed December 18, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Ft. Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). (1) *household cleaning products, water purifying compounds, and dry acids; and (2) materials, equipment, and supplies used in the manufacture, sale, and distribution of commodities listed in (1) above (except commodities in bulk)* from the facilities of Hi-Lex, Division of Purex Industries, at or near Eagan and St. Paul, MN, to points in IA, ND, SD, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hi-Lex, Division of Purex Industries, 6120 N. Detroit Ave., Toledo, OH 43612. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 121470 (Sub-55TA), filed January 16, 1980. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Decking iron and steel,* from the facilities of Southeast Metal Deck, Inc. at Norfolk, VA to TN, AR, GA, AL, KY, NC, & SC, for 180 days. Supporting shipper(s): Southeast Metal Deck, Inc., 1400 Cavalier Blvd., Chesapeake, VA 23323. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 123841 (Sub-10TA), filed January 21, 1980. Applicant: DAVID TESONE TRUCKING, INC., 5374 William Flynn Highway, Gibsonia, PA 15044. Representative: Jeremy Kahn, 1511 K St., NW., 733 Investment Bldg., Washington, DC 20005. *Salt* in bulk, in dump vehicles, from the facilities of Morton Salt at or near Fairport Harbor, OH to Millerstown, PA, Allegheny County, for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Morton Salt Company, Division of Morton-Norwich, 110 North Wacker Dr., Chicago, IL 60606. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 124711 (Sub-104TA), filed November 29, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Rod Parker (same as above). *Alcohol,* in bulk, in tank vehicles, from Atchison, KS to points in NE, MO & IA; for 180 days, common, irregular; supporting shipper: Jones Oil, Inc., 3301 Cornhusker, Lincoln, NE 68501; send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 124711 (Sub-105TA), filed January 21, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El

Dorado, KS 67042. Representative: Rod Parker, P.O. Box 1050, El Dorado, KS 67042. *Liquid animal feed, ingredients and supplements, in bulk, in tank vehicles* from Ralston Purina Company at or near Leoti, KS to points in CO, NE and OK for 180 days. Supporting shipper(s): Ralston Purina Company, 414 East 18th, Wichita, KS 67201. Send protest to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Fort Worth, TX 76102.

MC 124821 (Sub-86TA), filed December 17, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Television sets, radios, phonographs, stereo systems, recorders, and players, speaker systems, and audio equipment, and accessories and parts for the commodities set forth above,* from Bloomington and Indianapolis, IN to points in NY, NJ, PA, and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RCA Corp., Building 204–2, Route 38, Cherry Hill, NJ 08358. Send protest to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 124920 (Sub-3TA), filed December 14, 1979. Applicant: LA BAR'S, INC., 771 Scott St., Wilkes-Barre, PA 18705. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Iron or steel tubing,* (except that requiring special equipment), between the facilities of Roth Steel Tube at Newton Falls, OH, and the facilities of Roshel Industries at East Palestine, OH, on the one hand, and, on the other, the facilities of Roth American, Inc., at Wilkes-Barre, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roth American, Inc., 356 N. Pennsylvania Ave., Wilkes-Barre, PA 18773. Send protest to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 126930 (Sub-34TA), filed January 28, 1980. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Iron and steel articles,* from the facilities of Nucor Corp. at or near Norfolk, NE, to points in IA, MO, KS, OK, AR, TX, LA, and TN, for 180 days. Underlying ETA filed. Supporting shipper(s): Nucor Corp., P.O. Box 309, Norfolk, NE 68701. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Fort Worth, TX 76102.

MC 128270 (Sub-47TA), filed December 28, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley St., East Gary, IN 46405. Representative: Richard A. Kerwin, 180 N. LaSalle St., Chicago, IL 60601. *Iron and steel articles and materials, equipment, and supplies used in the manufacture of same* between Gerald, MO on the one hand, and, on the other hand, points in the states of IN, IL, WI, IA, TX, OK, KS, AR, KY, LA, MI, OH, MN, CO, AL, MS, FL and GA for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Bull Moose Tube Co., P.O. Box 214, Gerald, MO 63037. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 129401 (Sub-16TA), filed December 28, 1979. Applicant: DOUGLAS & BESS, INC., Rt. 5, Box 238, Statesville, NC 28677. Representative: John W. Douglas, Jr. (same as above). *Contract* carrier-irregular routes: *(1) Carpet underlay pads or padding, polyurethane cellular padding or material* from Statesville, NC to all points in the US (except HI and AK) under a continuing contract with Walk-On-Products, Inc. (2) *materials, equipment and supplies used in the manufacturing, assembly, and distribution of carpet underlay pads or padding, polyurethane cellular padding or material* from all points in the US (except AK and HI) to Statesville, NC under a continuing contract with Walk-On-Products, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Walk-On-Products, Inc., P.O. Box 5554, Statesville, NC 28677. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 133541 (Sub-11TA), filed January 16, 1980. Applicant: MCKIBBEN MOTOR SERVICE, INC., 494 West Sharon Rd., Cincinnati, OH 45246. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Containers and container ends* from the facilities of Diamond International Corp., Heekin Can Division, at or near Cincinnati, OH to points in IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond International Corporation, Heekin Can Division, 429 New St., Cincinnati, OH 45202. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 135280 (Sub-12TA), filed January 10, 1980. Applicant: PEP LINES TRUCKING CO., 32600 Dequindre Road, Warren, MI 48092. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. *Contract carrier:* irregular routes: *Such merchandise as is dealt in by retail department stores, wholesale mercantile establishments and mail order houses, and equipment, materials and supplies used in the conduct of such businesses (except commodities in bulk, in tank vehicles)* between Sharonville, OH, on the one hand, and on the other, points in IL, IN, KY, PA, TN, VA and WV, under continuing contract or contracts with Montgomery Ward & Co., Inc. for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Montgomery Ward & Co., Inc., Montgomery Ward Plaza, Chicago, IL 60671. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 135691 (Sub-44TA), filed January 17, 1980. Applicant: DALLAS CARRIERS CORP. P.O. Box 402626, Dallas, TX 75240. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Contract, irregular; *Air conditioning equipment, furnaces, component parts and accessories thereof* from Blackville, SC to Memphis, TN; restricted against commodities in bulk or those which by reason of size or weight require use of special equipment; and further restricted to transportation service to be performed under continuing contract with Carrier Corporation; for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Carrier Corporation, P.O. Box 4808, Carrier Pkway, Syracuse, NY 13221. Send protests to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Ft. Worth, TX 76102.

MC 135811 (Sub-19TA), filed January 16, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner (same as above). *Contract Carrier;* over irregular routes: *Welding products, products affiliated with welding, and products dealt in by manufacturers and dealers of welding,* (1) From Baltimore, MD; Troy, OH; Hanover, PA: Monticello, IN; and Chicago, IL, to points in AL, AR, AZ, FL, GA, MS, NM, LA, OK, and TX and (2) Between Dallas, TX and Gulfport, MS, on the one hand, and on the other, points in AL, AR, AZ, FL, GA, MS, NM, LA, OK and TX, for 180 days. Supporting shipper(s): Dealers Wholesale Welding Supply, Inc., P.O. Box 470072, Dallas, TX 75247. Send protests to: E. E. Strotheid, District Supervisor, ICC, 866 Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201.

MC 136511 (Sub-94TA), filed November 17, 1979, published in the **Federal Register** of January 16, 1980 and republished this issue. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: Dwight L. Koerber, Jr., 666 11 St., N.W., Washington, DC 20001. *Canned goods,* from Belledeau and St. Francisville, LA

to points in WA, OR, CA, AR, UT, NE, ID, IL, IN, OH, MI, WI, MN, IA, MO, PA, NY, NJ, MD, MA, CT, RI, VA, NC, SC, GA, AL, and FL, for 180 days. An underlying ETA seeks 90 days authority. Shipper: Joan of Arc Co., 2231 W. Altorfer Dr., Peoria, IL 61615. Send protest to: 101 N. Seventh St., Room 620, Philadelphia, PA 19106. The purpose of this republication is to correct the commodity description from foodstuffs to canned goods.

MC 138941 (Sub-43TA), filed January 16, 1980. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, CA 91766. Representative: K. Edward Wolcott, P.O. Box 56387, Atlanta, GA 30343. *Contract:* Irregular: *Plastic and plastic articles, restricted against the transportation of commodities in bulk,* from the facilities of International Paper Co. at or near Hudson, NC, and at or near Litchfield, IL to points in AZ, CA, CO, ID, IL, KS, LA, MN, MS, MT, NM, NV, OK, OR, SD, TX, UT, WA, WI and WY, under a contract or contracts with International Paper Company at New York, NY, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): International Paper Company, 220 E. 42nd St., New York, NY 10017. Send protests to: Irene Carlos, T/A, ICC, 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 138960 (Sub-13TA), filed January 9, 1980. Applicant: ROKO EXPRESS, INC., P.O. Box 169, Columbus, OH 43216. Representative: Elaine M. Conway, 10 S. LaSalle St. Chicago, IL 60603. (1) *Paper and paper products and plastic articles,* from the facilities of International Paper located at or near Mobile, AL and Jackson, TN, to points in IL, IN, KY, MI and OH; (2) *Paper and paper products and plastic articles,* from the facilities of International Paper located at or near Jackson, TN to points in FL, for 180 days. Supporting shipper(s): International Paper Company, 220 E. 42nd St., New York, NY 10017. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 139091 (Sub-25TA), filed July 30, 1979. Applicant: HENRY ANDERSEN OF TEXAS, INC., Rt. 287, P.O. Box 1129, Stratford, TX 79084. Representative: Chester A. Zyblut, 1030 Fifteenth St., N.W. Suite 366, Washington, D.C. 20005. *Contract carrier*—irregular route: *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk),* from the facilities used by John Morrell & Co. at or near Amarillo, El Paso, and Lubbock, TX; Shreveport, LA; and Memphis, TN, to points in AL, CA, CT, DE, FL, GA, KY, LA, MA, MD, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Martha A. Powell, TCS, ICC, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 139420 (Sub-47TA), filed December 26, 1979. Applicant: GLACIER TRANSPORT, INC., Box 428, Grand Forks, ND 58201. Representative: William J. Gambucci, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. *Alcoholic beverages* from the CA counties of Sonoma, Monterey, Mendocino and Napa to Fargo and Bismarck, ND for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Ed Phillips & Sons Co., 318 N. 5th St., Fargo, ND 58102. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 140030 (Sub-9TA), filed January 16, 1980. Applicant: PLASTIC EXPRESS, 2999 La Jolla St., Anaheim, CA 92806. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. *Contract:* Irregular: *(1) Lubricating oil, oil products, and, lubrication filters (except bulk products), and, (2) Automotive filters,* (1) From Alameda, CA to points in UT and ID, and (2) From Salt Lake City, UT to points in OR and CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Pennzoil Company, 1730 West Olympic Blvd., Suite 102, Los Angeles, CA 90015. Send protests to: Irene Carlos, T/A, ICC, 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 142630 (Sub-1TA), filed June 20, 1979. Applicant: FUGAZY CONTINENTAL CORPORATION OF NEW JERSEY, INC., 645 Madison Avenue, New York, NY 10022. Representative: Arthur Wagner, Esq., 600 Madison Avenue., New York, NY 10022. Common carrier, *regular routes: Passengers and their baggage and incidental charter operations subject to vehicular restrictions,* between Ramsey, NJ, and Suffern, NY, beginning at Ramsey, NJ, or Highway 17, to NY Highway 17, to Interstate Highway 87, thence Interstate Highway 87, to Airmont Road (Exit 14B), thence over Airmont Road to Holiday Inn-Holidome at No. 30 Airmont Road, Suffern, NY, and return over the same routes; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Holiday Inn-Holidome, 30 North Airmont Road, Suffern, NY 10901. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 143540 (Sub-22TA), filed December 11, 1979. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contract* carrier-irregular routes-*Malt beverages* from Detroit, MI to Myrtle Beach, SC and Wilmington, NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oliver Distributing Company, P.O. Box 2867, Myrtle Beach, SC 29577; Windham Distributing Company, P.O. Box 1489, Wilmington, NC 28402. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm. CC516, Charlotte, NC 28205.

MC 143701 (Sub-24TA), filed January 14, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *(1) Paper bags, (2) materials used in producing paper bags* (1) from New Orleans, LA to points in ID, MA, NV, NH, NY, OR, PA, WV and WY; and (2) from points in ID, MA, NV, NH, NY, OR, PA, WV, and WY to New Orleans, LA for 180 days. Underlying ETA filed. Supporting shipper(s): Westvaco, 1400 Annunication St., New Orleans, LA 70160. Send protests to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Fort Worth, TX 76102.

MC 143921 (Sub-2TA), filed January 31, 1980. Applicant: BAMA EXPRESS, INC., 5400 Kauloosa Ave., Tuscaloosa, AL 35401. Representative: Henry B. Cummings, Address same as the Address of the applicant. *Concrete products and accessories, materials, and supplies used in the installation and shipping of such commodities,* from the plant sites of Tuscaloosa Concrete Pipe Co., at or near Tuscaloosa, AL to points in MS, TN, GA and FL, for 180 days. Supporting shipper(s): Tuscaloosa Concrete Pipe Co., 3735 32nd Ave., Tuscaloosa, AL 35403. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 144140 (Sub-49TA), filed January 29, 1980. Applicant: SOUTHERN FREIGHTWAYS, INC., W. Highway 44, Eutis, FL 32726. Representative: John L. Dickerson, address same as applicant. *(1) Air, gas and liquid conditioning and handling equipment and (2) materials, equipment and supplies used in the*

installation and operation of the commodities named in (1) above, from Clarksville and Nashville, TN to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Trane Company, P.O. Box 1008, Clarksville, TN 37040. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144330 (Sub-93TA), filed November 20, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff, same address. *Wallboard,* from Rosario, NM to Denver, CO and Phoenix, AZ, for 180 days. Supporting shipper(s): Dry Wall Supply, Inc., 1805 W. Irvington Place, Denver, CO 80223. Send protests to: Patricia Allgier, TA, ICC, 5301 Federal Bldg., 125 S. State St., Salt Lake City, UT 84138.

MC 144910 (Sub-14TA), filed December 3, 1979. Applicant: TYREE D. PRUITT, d.b.a., TY Pruitt Trucking, 811 Landay Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 1030 15 St. NW, Washington, DC 20005. *Flour, products of flour, and sugar topping* (except in bulk), from the facilities of the Pillsbury Co., Martel, OH, to Williamsport, PA and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Pillsbury Co., 6082 Avenue, South, Minneapolis, MN 55402. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 144630 (Sub-43TA), filed January 9, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Clay, crushed or ground, except in bulk* from Quality, GA to points in DC, DE, IL, IN, KY, MD, NJ, NY, OH and PA for 180 days. Supporting shipper(s): Waverly Mineral Products Co., 3018 Market St., Philadelphia, PA 19104. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145301 (Sub-7TA), filed January 15, 1980. Applicant: R. E. M. TRANSPORT CO., INC., Building No. 431, Raritan Center, Edison, NJ 08817. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 367, Arlington, VA 22201. *Chemicals, plastics and materials and supplies used in the production or marketing of the above commodities* (except in bulk) from points in Harris County, TX to points in CT, IL, IN, MA, MI, NH, NJ, NY, OH, PA and RI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Shamrock Corporation, 1100 Superior Avenue, Cleveland, OH 44114. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145481 (Sub-4TA), filed January 28, 1980. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Such commodities as are dealt in by department stores (except commodities in bulk)* from points in Alabama, Georgia, Mississippi, North Carolina, Tennessee, South Carolina, and Philadelphia, Pennsylvania to the facilities utilized by the Akron, Inc. in Los Angeles, California for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): The Akron, Inc., 3540 Wilshire Blvd., Los Angeles, CA 90010. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145651 (Sub-1TA), filed June 7, 1979. Applicant: DUNCAN & SONS, INC., P.O. Box 775, Lewis, CO 81327. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. Burlap from Los Angeles, CA and points in its commercial zone to Monte Vista, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Bag & Chemical Co., Inc., P.O. Box 109, Monte Vista, CO. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145651 (Sub-2TA), filed August 6, 1979. Applicant: DUNCAN & SONS, INC., P.O. Box 775, Lewis, CO 81327. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68127. *Protroleum products,* from Los Angeles, CA to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., 111 Rusk Street, P.O. Box 52332, Houston, TX 77052. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 145651 (Sub-3TA), filed November 26, 1979. Applicant: DUNCAN & SONS, INC., P.O. Box 775, Lewis, CO 81327. Representative: J. F. Crosby, I–80 & Hwy. 50, P.O. Box 37205, Omaha, NE 68137. *Petroleum products* (except commodities in bulk) from Los Angeles, CA, and points in its comm. zone, to points in AZ, NM and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco Inc., 1111 Rusk, Houston, TX 77002. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 145950 (Sub-74TA), filed January 16, 1980. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: Arthur Grimes, Route 6, Box 2611, Waco, TX 76706. *Pneumatic tires* from the facilities of General Tire Company at or near Waco, TX to Phoenix, AZ; Calexico and Los Angeles, CA and points in their commercial zones for 180 days. Underlying ETA has been filed. Supporting shipper(s): EMPCO Industries, Inc., 900 Allen Avenue, Glendale, CA 91201. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Suite 600, Fort Worth, TX 76102.

MC 145981 (Sub-2TA), filed January 15, 1980. Applicant: ACE TRUCKING CO., INC., One Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Groceries and grocery supplies and materials, equipment and supplies used in the manufacture and sale of groceries and grocery supplies* (except commodities in bulk) between points in MA, on the one hand, and, on the other, points in the states of DE, GA, IL, IN, MD, NJ, NY, NC, OH and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Transtop Incorporated, 50 Somerset Avenue, Winthrop, MA 02152. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145981 (Sub-3TA), filed January 16, 1980. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Foodstuffs and materials, equipment and supplies used in the manufacture and sale of foodstuffs* (except commodities in bulk) between points in NJ on the one hand, and, on the other, points in CA, IL, IN, IA, MI, MN, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): De Zaan, Inc., 411 Hackensack Avenue, Hackensack, NJ 07601. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146040 (Sub-3TA), filed February 1, 1980. Applicant: THOMAS L. McDOWELL and BETTY McDOWELL d.b.a. McDOWELL TRUCKING, Route 2, Michie, TN 38357. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Sand, gravel, limestone and crushed stone, from the plant site or quarry of Adamsville Sand & Gravel Co., Inc. at or near Adamsville, TN to points in Alcorn County, MC and Tishomingo County, MS, for 180 days. Common, irregular. An underlying ETA granted 90 days authority. Supporting shipper(s): Adamsville Sand & Gravel Co., Inc., Adamsville, TN. Send protests to: Diana J. Porter, Suite 2006—100 N. Main St., Memphis, TN 38103.*

MC 146051 (Sub-4TA), filed December 31, 1979. Applicant: WITTENBURG TRUCK LINE, INC., P.O. Box 98, Readlyn, IA 50668. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Iron and steel articles* from Grand Rapids and Detroit, MI; Cleveland, OH; Marengo, DeKalb, and Chicago, IL, and their commercial zones to points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, GA, TN, KY, OH, MI, IN, and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American United Steel Co., 3330 Dundee, Unit C–5, Northbrook, IL 60062. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146081 (Sub-1TA), filed December 3, 1979. Applicant: SERVICE EQUIPMENT & TRUCKING, INC., Box 162, Mattoon, IL 61932. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Road paving equipment,* from Mattoon, IL to points in the United States, except AK and HI (restricted to traffic originating at the facilities of Blaw-Knox Construction Equipment Co., at Mattoon, IL) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blaw-Knox Construction Equipment Co., East Route 16, Mattoon, IL 61938. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146210 (Sub-3TA), filed January 16, 1980. Applicant: MARK IV MESSENGER, INC., Marron Bldg, 50 N. Franklin Tpke., Ho-ho-kus, NJ 07423. Representative: Paul J. Keeler, PO Box 253, South Plainfield, NJ 07080. CONTRACT, IRREGULAR. *Computer printouts; computer terminals and equipment, supplies and materials used or useful in the installation or operation of computer terminals.* Between Rochelle Park, NJ and points in MA, RI, CT, points in PA on and east of US HWY 15 and points in Columbia, Dutchess, Greene, Nassau, Orange, Putnam, Rockland, Suffolk, Ulster and Westchester Counties, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Xerox Computer Services, 365 West Passaic Street, Rochelle Park, NJ 07662. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146281 (Sub-2TA), filed July 25, 1979. Applicant: SILVER FLEET EXPRESS, INC., P.O. Box 6089, 4521 Rutledge Pike, Knoxville, TN 37914. Representative: Blaine Buchanan, 1024 James Bldg, Chattanooga, TN 37402. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities which because of size or weight require the use of special equipment),* serving Etowah, TN and points in its commercial zone as off-route points in connection with applicant's otherwise authorized regular route operations between Knoxville, TN and New Orleans, LA, for 180 days. Supporting shipper(s): There are 7 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, Suite A–422, 801 Broadway, Nashville, TN 37203.

MC 146281 (Sub-3TA), filed December 5, 1979. Applicant: SILVER FLEET EXPRESS, INC., 4521 Rutledge Pike, P.O. Box 6089, Knoxville, TN 37914. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004. *Foodstuffs,* from the plant site of Stokely-Van Camp at or near Newport, TN to points in MS, LA, and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stokely-Van Camp, Inc., 941 N. Meridian St., P.O. Box 1113, Indianapolis, IN 46206. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 146440 (Sub-6TA), filed January 25, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., 34 Market Street, Everett, MA 02149. Representative: Mr. Alan Bernson, Suite #32, 34 Market Street, Everett, MA. 02149. *Confectionery and confectionery products (except in bulk)* from the facilities of Schrafft Candy Company, Boston, MA and Woburn, MA to Phoenix, AZ, Little Rock, AR, Los Angeles, CA, San Francisco, CA, Denver, Colorado, Jacksonville, FLA, Miami, FLA, Orlando, FLA and Winter Haven, FLA, Atlanta, GA, Chicago, ILL, Ft Wayne and Indianapolis, Ind. Kansas City, Kansas, Detroit and Grand Rapids, MI, Minneapolis and St. Paul, MN, St. Louis, MO, Charlotte, NC, Cincinnati, Cleveland, Columbus, Dayton and Toledo, OH, Portland, Oregon, Chattanooga, Memphis and Nashville, TN, Dallas, El Paso, Ft Worth, and Houston, TX, Salt Lake City, UT, Seattle, Washington and Milwaukee, Wisconsin. Supporting shipper(s): Schrafft Candy Company, Sullivan Square, Boston, MA. Send protests to: John B. Thomas, D/S, I.C.C., 150 Causeway Street, Boston, MA. 02114.

MC 146451 (Sub-19TA), filed September 11, 1979. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE, Dothan, AL 36302. Representative: William K. Martin, 57 Adams Avenue, Montgomery, AL 36104. *Woven paper fabrics, plastic coated cloth and plastic coated fabrics* (other than loop or pile surface) from the facilities utilized by Twitchell Corporation, at or near Dothan, AL, to all points in the United States (except in AL only to Mobile), for 180 days. Supporting shipper(s): Twitchell Corporation, P.O. Box 1566, Dothan, AL 36302. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616–2121 Building, Birmingham, AL 35203.

MC 146671 (Sub-1TA), filed March 30, 1979. Applicant: PRODUCE SERVICE INC., d.b.a. PSI, 1120 Erie Street, North Kansas City, MO 64116. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. *Charcoal, charcoal briquets, fireplace logs, wood chips, lighter fluid and all related products* (except liquid commodities in bulk), from Meta, MO, to AZ, CA, CO, FL, GA, KS, NE, MS, NM, OK, OH, SD, TX, UT, and WA, for 180 days. An underlying ETA was granted for 20 days. Supporting shipper(s): Standard Milling Company, P.O. Box 410, Kansas City, MO 64141. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut, Kansas City, MO 64106.

MC 146671 (Sub-2TA), filed April 11, 1979. Applicant: PRODUCE SERVICE, INC., 1120 Erie Street, North Kansas City, MO 64116. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Charcoal, charcoal briquets, fireplace logs, wood chips lighter fluid and related products* (except commodities in bulk), from Dickinson, ND to points in MN, SD, IA, NE, MO, AR, LA, TX, OK, KS, MT, ID, WA, OR, WY, CA, NV, AZ, CO, and NM, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Husky Industries, 62 Perimeter Center East, Atlanta, Ga 30346. Send protests to: Vernon V. Coble D/S, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 146671 (Sub-3TA), filed April 11, 1979. Applicant: PRODUCE SERVICE, INC., 1120 Erie Street, North Kansas City, MO 64116. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Charcoal, charcoal briquets, fireplace logs, wood chips, lighter fluid and related products* (except commodities in bulk), from Branson, MO to points in AR, LA, MS, TN, IN, IL, OH, TX, OK, KY, NE, IA, W VA, PA, NM, AL, CO, CA, KS, UT, and NV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky

Industries, 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 146671 (Sub-4TA), filed April 16, 1979. Applicant: PRODUCE SERVICE INC., 1120 Erie Street, North Kansas City, MO 64116. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. *Foodstuffs* (except commodities in bulk), from Bonner Springs, KS to points in OK, TX, MO, AR, LA, AZ, and NM, for 180 days, an underlying ETA seeks 90 day authority. Supporting shipper(s): Southeastern Public Service, P.O. Box 356, Bonner Springs, KS 66012. Send protests to: Vernon V. Coble, D/S, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 146671 (Sub-9TA), filed September 24, 1979. Applicant: Produce Service, Inc., d.b.a. PSI, 1120 Erie Street, North Kansas City, MO 64116. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Apple cider* (except in bulk), from Alton and Olney, IL, to points in IA, MO, KS, NE, OK, TX, AR, and CO. Supporting shipper(s): Southeastern Public Service, P.O. Box 356, Bonner Springs, KS 66012. Send protests to: Vernon Coble D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 146820 (Sub-4TA), filed August 1, 1979, published in the **Federal Register** of October 3, 1979, and republished this issue. Applicant: B & G TRUCKING, INC., 77 East Wilson Bridge Road, Worthington, OH 43085. Applicant's representative: David Turano, 100 East Broad St., Columbus, OH 43215. *(1) Such commodities* as are dealth in by wholesale, retail and chain grocery and food business warehouses; *(2) Materials, equipment, and supplies* used in the manufacture, processing, and distribution of (1) above, (a) between the facilities of the Clorox Company at Chicago, IL, on the one hand, and, on the other, points in the states of IN, MI, and OH; and (b) between the facilities of the Clorox Company at Cleveland, OH, on the one hand, and, on the other, points in the states of MI, PA, NY, and NJ, restricted against the transportation of frozen commodities and commodities in bulk and further restricted to the transportation of shipments under a continuing contract(s) with The Clorox Company of Oakland, CA. Shipper: The Clorox Co., 1221 Broadway St., Oakland, CA 94612. Send protest to: ICC, Fed. REs. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106. The purpose of this application is to properly reflect the commodities and the origins and territories involved.

MC 146841 (Sub-5TA), filed January 15, 1980. Applicant: DESERT FREIGHT LINES INC., 1200 Valencia Ave., Tustin, CA 92680. Representative: William J. Monheim, P.O. Box 1756 Whittier, Ca 90609. *Drilling tools, parts for drilling tools, and knocked down boxes,* from Irvine, CA, to Denver, CO and Dallas, TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Smith Tool Company, 17871 Von Karman Ave., P.O. Box C–19511, Irvine, CA 92713. Send protests to: Irene Carlos, T/A, I.C.C., Room 1321 Federal Building, 300 N. Los Angeles St., Los Angeles, CA 90012.

MC 146880 (Sub-2TA), filed January 2, 1980. Applicant: LOWELL E. DENTON, d.b.a. DENTON CARTAGE CO., 7322 West 90th Street, Bridgeview, IL 60455. Representative: Lowell E. Denton, P.O. Box 40, Palos Park, IL 60464. *Empty container chassis'* from North Bergen, NJ; Harrisburg and West Point, PA; Baltimore, MD; Norfolk, VA to Chicago, IL for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Transport International Pool, 210 N. Ogden Ave., Chicago, IL 60607. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 147280 (Sub-4TA), filed December 21, 1979. Applicant: WARREN GRADWELL, d.b.a. W. L. GRADWELL TRANSPORT, Route 1, Box 52, Mingo, IA 50168. Representative: James M. Hodge, 1980 Financial Ctr. Des Moines, IA 50309. contract carrier—irregular routes *fresh or frozen pork products (except in bulk)* from points in IL, MN, and NE to (1) San Leandro, CA, under continuing contract(s) with Joe Larwill Fresh Pork; (2) Reno, NV, and Sacramento, CA, under continuing contract(s) with Calvada Sales Co.; and (3) San Francisco, CA, under continuing contract(s) with C. J. Figone & Son, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joe Larwill Fresh Pork, 560 Estabrook, San Leandro, CA 94577; Calvada Sales Co., P. O. Box 5535, Reno, NV 89503; C. J. Figone & Son, 815 Tennessee St., San Francisco, CA 94107. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147461 (Sub-2TA), filed December 18, 1979. Applicant: FEDERAL ARMORED EXPRESS, INC., 7675 Canton Center Dr., Baltimore, MD 21224. Representative: Frederick A. Aus, 7675 Canton Center Dr., Baltimore, MD 21224. *Currency,* between Philadelphia, PA, Richmond, VA, Culpeper, VA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Reserve System, 20 & Constitution NW, Washington, DC 20551. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 147521 (Sub-5TA), filed January 15, 1980. Applicant: J. S. I., 918 E. Vermont St., Anaheim, CA 92805. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 91202. *Foodstuffs, in refrigerator equipment,* from points in Orange County, CA to points in Maricopa County, AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Orange Bakery, Inc., 17751 Cowan Ave., Irvine, CA 92664. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 147570 (Sub-2TA), filed December 26, 1979. Applicant: KABAT EXPRESS, INC., 1944 Scranton Rd., Cleveland, OH 44113. Representative: Daniel Kabat, same address as applicant. Contract carrier, irregular routes: *Lead, materials, equipment and supplies used in the processing of lead* between Cleveland, OH, on the one hand, and, on the other, points in and east of ID, UT, and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Master Metals, Inc., 2850 E. Third St., Cleveland, OH 44113. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 147911 (Sub-2TA), filed January 21, 1980. Applicant: TILFORD TRUCKING, INC., P.O. Box 34, Readyville, TN 37149. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004. *Wheel balancing materials and equipment and commodities used in the manufacture thereof,* between Rutherford County, TN, on the one hand, and, on the other, points in the U.S., for 180 days. Supporting shipper(s): Perfect Equipment Company, 855 Scotch St., Murfreesboro, TN 37130. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 148211 (Sub-1TA), filed November 6, 1979. Applicant: JACKSON TRANSFER, INC., 6520 Powers Ferry Road, Suite 200, Atlanta, GA 30339. Representative: C. Jack Pearce, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036. *Meats, meat products and meat by-products* from Glenwood, Sioux City and Marshalltown, IA, Guymon, OK, Clovis, NM and Cactus, TX to points in AL, FL, GA, MS, NC, SC and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Sara

K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 148281 (Sub-11TA), filed January 28, 1980. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Road, Whittier, CA 90601. Representative: Miles L. Kavaller, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Plastic containers,* from Tacoma, WA to points in CA, CO, OR and UT, for 180 days. Supporting shipper(s): Northwest Containers, Inc., 635 E. 15th St., Tacoma, WA 98421. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 148300 (Sub-1TA), filed January 14, 1980. Applicant: ALL STAR VAN & STORAGE, INC., 2309 Mills Street, El Paso, Texas 79901. Representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. *Appliances* between points in TX west of Highway 83; NM and AZ: Thatcher, Nogales, Tucson, Show Low, Coolidge, Flagstaff, Sedona, AZ; Alamogordo, Santa Fe, Espanola, Las Vegas, Spunger, Farmington, Carlsbad, NM; Pecos, Presidio, Fabens, Fort Stockton, Big Lake, Brownfield, Hereford, TX for 180 days. Underlying ETA filed. Supporting shipper(s): Maytag Company, Newton, IA 50208. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Suite 600, Fort Worth, TX 76102.

MC 148501 (Sub-1TA), filed December 7, 1979. Applicant: SOUTHCHEM, INC., 750 East Markham, Durham, NC 27702. Representative: John M. Pugh, 750 East Markham, Durham, NC 27702. *Contract carrier*—Irregular routes; *Tobacco and tobacco products and advertising and promotional items when moving in the same vehicle and at the same time as the tobacco and tobacco products* from Durham, NC to Albany, NY, Atlanta, GA, Bellmawr, PA, Buffalo, NY, Farmingdale, NY, Harrisburg, PA, Hartford, CT, Jacksonville, FL, Jersey City, NJ, Louisville, KY, Memphis, TN, Pittsburgh, PA, Syracuse, NY, Tampa, FL and Wilkes-Barre, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Liggett & Myers Tobacco Company, Main & Fuller Sts., Durham, NC 27702. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC 28205.

MC 148570 (Sub-3TA), filed January 9, 1980. Applicant: N.A.T. TRANSPORTATION, INC., 229 North Main St., Bradner, OH 43406. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603. (a) *Industrial filtration equipment, and* (b) *equipment, materials and supplies used or useful in the manufacture, sale and distribution of the commodities named in (a) above,* between Bowling Green, OH, on the one hand, and points in the continental United States in and east of MT, WY, CO and NM, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henry Filters, Inc., 1350 Van Camp Rd., Bowling Green, OH 43402. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 148620 (Sub-2TA), filed February 1, 1980. Applicant: K.G.L. CONTRACTING SERVICES, INC., 2270 S.W. 36th St., Fort Lauderdale, FL 33312. Representative: John T. Bond, Suite 410, Hollywood Fed. Bldg., 909 South State Rd. 7, Hollywood, FL 33023. Contract Carrier—Irregular Route: *Commodities as are sold or used by operators of restaurant chains* (except commodities in bulk) between (1) Burger King facilities; (2) Burger King facilities and Burger King supply areas; and (3) to and from Burger King supply areas throughout the U.S. (excluding AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Burger King Corporation, 9200 South Dadeland Blvd., Miami, FL 33152. Send protests to: Donna M. Jones, T/A, ICC–BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 148731(Sub-2TA), filed November 20, 1979. Applicant: MINKEVITCH TRUCKING & HAULING, INC., 1217 Cross Street, Ogden, UT 84404. Representative: Fred J. Minkevitch, Jr., same address. *(1) Salt and Salt Products; and (2) Materials and supplies used in agriculture, water treatment, food processing, wholesale grocery, and institutional supply industries when shipped in mixed loads with commodities named in (1) above,* from points and facilities of Lake Crystal Salt Co. at or near Saline, UT and Ogden, UT to points in AZ, CA, CO, ID MT NE NV, NM, OR, SD, UT, WA and WY, for 180 days. An underlying ETA requesting up to 90 days authorized. Supporting shipper(s): Lake Crystal Salt Co., P.O. Box 459, Hutchinson, KS 67501. Send protests to: PATRICIA ALLGIER, TA, ICC, 5301 Federal Bldg., 125 S. State St., Salt Lake City, UT 84138.

MC 148741 (Sub-1TA), filed January 31, 1980. Applicant: K. A. GOTCHAL, an individual, 6530 Power Line Road, Fallon, NV 89406. Representative: (Same as applicant) *Truck and equipment bodies and hoists* and related articles, from Los Angeles, CA to Reno, NV, for 180 days. Supporting shipper(s): Jordon Thermo King, 355 Sage Street, Reno, NV 89505. Send protests to: W. J. Huetig DS, I.C.C., 705 North Plaza Street, Carson City, NV 89701.

MC 148791 (Sub-4TA), filed November 21, 1979. Applicant: TRANSPORT-WEST, INC., 247 West 1400 South, Salt Lake City, UT 84115. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. *Such commodities as are dealt in or used by wholesale or discount retail department, discount or variety stores,* between Salt Lake City, UT and Reno, NV and their respective commercial zones, for 180 days. There is an identical ETA request for 90 days. Supporting shipper(s): Grand Central, Inc., 2233 S. 300 East, Salt Lake City, UT 84115. Send protests to: PATRICIA ALLGIER, TA, ICC, 5301 Federal Bldg., 125 S State St., Salt Lake City, UT 84138.

MC 149161 (Sub-2TA). Applicant: FOREST PARK AND MAIN STREET WRECKERS, INC., 5013 Courtny Drive, Forest Park, GA 30050. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. (1) *Wrecked and disabled trucks; wrecked and disabled tractors; wrecked and disabled trailers and* (2) *replacement vehicles* from points in FL, AL, MS, KY, TN, NC, SC, and VA to Atlanta, GA and (2) from Atlanta, GA to points in FL, AL, MS, KY, TN, NC, SC, and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are (15) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 149170 (Sub-4TA), filed December 28, 1979. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 S. LaSalle Street, Chicago, IL 60603. (1) *Electric ranges and microwave ovens, and parts and accessories thereto,* from Minneapolis, MN, and Sioux Falls, SD, to all points in the United States except AK and HI; and (2) *Commodities used in the manufacture, sale and distribution of (1) above, except commodities in bulk,* from all points in the United States, except AK and HI, to Minneapolis, MN, and Sioux Falls, SD, restricted to traffic originating at and destined to Litton Microwave Cooking in Minneapolis, MN and Sioux Falls, SD for 180 days. Supporting shipper(s): Litton Microwave Cooking, 1405 Xenium Lane, No., Minneapolis, MN 55440. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148811 (Sub-2TA), filed December 4, 1979. Applicant: BECKSTROM ENTERPRISES, INC., P.O. Box 56, Gwinner, ND 58040. Representative: JAMES B. HOVLAND, 414 Gate City

Building, P.O. Box 1680, Fargo, ND 58107. (1) *Iron and steel articles,* from Minneapolis, MN, and Chicago, IL to the facilities of Concord, Inc. at Fargo, ND; and (2) *Airline baggage wagons,* from the facilities of Concord, Inc. at Fargo, ND to Chicago, IL and Memphis, TN for 180 days. Supporting shipper(s): Concord, Inc., 2800 7th Ave. North, Fargo, ND 58102. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148971 (Sub-1TA), filed January 24, 1980. Applicant: EDWARD L. PARKER, d.b.a. ED PARKER TRUCKING, Monona, IA 52159. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Cheese and cheese products* from Hopkinton, Luana, and St. Olaf, IA, to Hyde Park, Logan, and Smithfield, UT; and Kiel and Monroe, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mississippi Valley Milk Producers Assn., P.O. Box 4493, Davenport, IA 52808. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 148971 (Sub-2TA), filed December 31, 1979. Applicant: EDWARD L. PARKER, d.b.a. ED PARKER TRUCKING, Monona, IA 52159. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Dairy products* (1) from St. Olaf, IA, to Topeka and Wichita, KS; Lakeville and Rochester, MN; Joplin and Kansas City, MO; Lincoln, NE; Oklahoma City, OK; Houston and San Antonio, TX; (2) from Luana, IA, to Deerfield, IL, and Rochester, MN; (3) from Rochester, MN, to St. Olaf, IA; (4) from Clinton, Maquoketa, and Waterloo, IA, to Topeka and Wichita, KS; Detroit, MI; Joplin and Kansas City, MO; Lincoln, NE; Oklahoma City, OK; and Houston and San Antonio, TX; and (5) from Fredericksburg, IA, to Topeka and Wichita, KS; Joplin and Kansas City, MO; Lincoln, NE; Oklahoma City, OK; and Houston and San Antonio, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mississippi Valley Milk Producers Assn., Inc., P.O. Box 4493, Davenport, IA 52808. Fleming Foods Co., 2 Townsite Plaze, Topeka, KS 66601. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 149020 (Sub-1TA), filed December 13, 1979. Applicant: MYERS MEN, INC., 4429 Hamilton Blvd., Allentown, PA 18103. Representative: Robert B. Einhorn, 3220 PSFS Bldg., Philadelphia, PA 19107. Contract carrier, irregular routes: *Used trucks in driveaway and truckaway and service* between points in the states of PA, NY, NJ, CT, RI, MA, OH, MD, DE, VA, NC, IN, WV, and IL, under continuing contract(s) with Mack Trucks, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mack Trucks, Inc., Box M, 2100 Mack Blvd., Allentown, PA 18105. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 149031 (Sub-1TA), filed December 21, 1979. Applicant: WLD, LTD., Route 4, Fairfield, IA 52556. Representative: Richard D. Hoadley, 121 N. Court St., Fairfield, IA 52556. CONTRACT CARRIER—IRREGULAR ROUTES *iron and steel articles and automotive and machinery parts* between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, NY, OH, OK, PA, TN, and WI, for 180 days, under contract with Rockwell International Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rockwell International Corporation, 1801 W. Stone Ave., Fairfield, IA 52556. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 149120 (Sub-2TA), filed January 2, 1980. Applicant: WORLD WIDE THEATRICAL RENTALS, INC., 695 So. Glenwood Place, Burbank, CA 91506. Representative: Loeb and Leob, One Wilshire Bldg., Suite 1600, Wilshire at Grand Ave., Los Angeles, CA 90017. *Equipment, materials and supplies for television, live theatrical, stage, industrial and promotional productions,* between all points in the United States, for 180 days. Supporting shipper(s): There are approximately fourteen shippers. The statements may be examined at the office listed below and Headquarters. Send protests to: Irene Carlos, T/A, ICC, 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 149131 (Sub-1TA), filed January 22, 1980. Applicant: ELLIS TRUCKING CO., Route 1, Box 294, Grand Bay, AL 36541. Representative: Thomas J. Ellis (same address as applicant). *Machinery parts, iron and steel, iron and steel articles, aluminum products and construction equipment,* between Mobile County, AL, and points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, TX, restricted to a transportation service for Franklin Machine & Iron Company. Supporting shipper(s): Franklin Machine & Iron, P.O. Box 358, Grand Bay, AL 36542. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 149150 (Sub-2TA), filed January 4, 1980. Applicant: 166 AUTO AUCTION, INC., 2944 W. Sunshine, Springfield, MO 65807. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804. *Used pickup trucks, and used vans,* from Springfield, MO to points in AR, IL, IN, IA, KS, MI, NB, OK, TN, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 18 supporting statements can be viewed at Kansas City, MO field office or Washington, D.C. office. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 149151 (Sub-1TA), filed January 5, 1980. Applicant: SCHUH TRANSPORT, INC., P.O. Box 207, Kaukauna, WI 54130. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract carrier:* irregular routes: *Aviation gasoline and jet fuel* from East Chicago, IN, to Austin Straubel Field, Green Bay, and Waupaca and Wautoma, WI. Restricted to transportation to be performed under a continuing contract(s) with Green Bay Aviation Corp. and Cliff Johnson Oil Company of Waupaca, Inc. for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Green Bay Aviation Corp., Austin Straubel Field, Green Bay, WI 54303; Cliff Johnson Oil Co. of Waupaca, Inc., 325 Miller St., Waupaca, WI 54981. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 149171 (Sub-1TA), filed January 10, 1980. Applicant: DATALERT CORP., d.b.a. CHRISTIAN TRANSPORT, 2959 Genesee Street, Buffalo, NY 14225. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Contract carrier—irregular routes. *Meat, meat products, meat by-products and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from Buffalo, NY to Los Angeles and San Francisco, CA; Denver, CO; Ft. Lauderdale, FL; Indianapolis, IN; New Orleans, LA; Minneapolis, MN; St. Louis, MO; Albuquerque, NM; and Dallas, TX, and points in the commercial zones of the respectively named cities, moving under a continuing contract or contracts with Z & W Foods, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Z & W Foods, Inc., 755 Bailey Avenue, Buffalo, NY 14206. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 149180 (Sub-1TA), filed January 7, 1980. Applicant: THOMAS GARY WEBB, d.b.a. T. G. WEBB CO., P.O. Box 414, Wingate, NC 28174. Representative: W. G. Reese III, P.O. Box 3004,

Charlotte, NC 28203. *Animal, fish or poultry feed, and feed ingredients* from the facilities of Diamond Shamrock Corporation at or near Louisville, KY to points and places in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. A. Warren Co., P.O. Box 17095, Charlotte, NC 28211. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 149181 (Sub-1TA), filed January 28, 1980. Applicant: KEIM TRANSPORTATION, INC., 420 North Sixth, Sabetha, KS 66534. Representative: Clyde N. Christey, 1010 Tyler, Suite 110L, Topeka, KS 66612. Contract, irregular; *dry fertilizer* from the facilities of Agrico located in the commerical zone of Blytheville, AR; the facilities of White River Chemical Corp. located in the commerical zone of Clarendon, AR; the facilities of American Cynamid located in the commercial zone of Helena, AR; the facilities of U.S. Fertilizer Co. located in the commerical zone of Little Rock, AR; the facilities of Terra Chemical located in the commerical zone of Port Neal, IA; the facilities of Cargill, Inc. located in the commercial zone of Sioux City, IA; the facilities of Gulf Chemical Company at or near Military, KS; the facilities of Agrico, First Mississippi, Olin Chemical Company and the barge terminals located in the commerical zone at or near Brunswick, MO; the facilities of Agrico, Allied Chemical, First Mississippi Chemical and Conserve located in the commercial zone of Kansas City, MO; the facilities of Cargill, Inc., located in the commerical zone of New Madrid, MO; the facilities of SureGro located in the commerical zone of Fall City, NE; the facilities of Allied Chemical Co. located in the commerical zone of LaPlatte, NE; the facilities of Martrex and American Cynamid located in the commercial zone of Nebraska City, NE; the commercial zone of Omaha, NE; the facilities of Agrico, Olin Chemical Company and Conserve located at or near the Port of Catoosa, OK; the facilities of N-Ren located in the commerical zone of Pryor, OK; the facilities of Chem-Quip and Conserve located in the commmerical zone of Tulsa, OK; the facilities of Fertitex located in the commerical zone of Kearns, TX; the facilities of Occidental Chemical located in the commercial zone of Plainview, TX; and the facilities of Texarkana Milling located in the commerical zone of Texarkana, TX to Arkansas, those points in CO east of the Continental Divide, IA, KS, MO, NE and those points in OK north of U.S. Interstate Highway No. 40, for 180 days. Supporting shipper(s): DeBruce Fertilizer, Inc., Box 10670, Gladstone, MO 64118. Send protest to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Ft. Worth, TX 76102.

MC 149201 (Sub-1TA), filed January 18, 1980. Applicant: SUN STATES TRUCKING, INC., 304 S. 67th Ave. (P.O. Box 7363 Indian School Station), Phoenix, AZ 85011. Representative: Phil B. Hammond, 3003 N. Central Ave., Suite 1705, Phoenix, AZ 85012. Contract, *Straight structural steel and steel plate, sheet, coil and pipe,* from the facilities of California Pacific Steel, Inc., Bell Gardens, CA, to the facilities of California Pacific Steel, Inc., Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: California Pacific Steel, Inc., 6006 Shull, Bell Gardens, CA 90201. Send Protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper: California Pacific Steel, Inc., 6006 Shull, Bell Gardens, CA 90201. Send protests to: Ronald R. Mau, District Superviosor , 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 149211 (Sub-2TA), filed January 7, 1980. Applicant: CONMAC STAGE LINES, LTD., 2280 Beacon Avenue, Sidney, B.C., V8L 1X1. Representative: Gerry Conrod (Same as above). *Passengers and baggage in round trip charter operations,* beginning and ending at ports of entry on the International Boundary line between the U.S. and Canada in WA state and extending to points in WA, OR, CA and NV, for 180 days. Supporting Shipper(s): Budget Travel Limited, 1066 Douglas St., Victoria, B.C., Canada V8W 2C3 Limel Contracting Ltd., 2375 Ulta Vista, Victoria, B.C. Sidney and Penninsula Kiwanis Club, 2025 A Rolwell Ave., Sidney, B.C. V8L 2L6 Vancouver Island Thoroughbred Horse Society, 10963 Kalitan Rd, Sidney, B.C. Victoria Airport Travel Lodge, 2280 Beacon Ave., Sidney, B.C. V8L1X1. Send protests to: Hugh H. Chaffee, D/S, ICC, 858 Federal Building, Seattle, WA 98174.

MC 149241 (Sub-1TA), filed Jan. 30, 1980. Applicant: R & T TRUCKING, INC., 2003 E. Viola, Yakima, WA. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. *Meat, meat products and meat byproducts (except hides and commodities in bulk)* from the facilities of Washington Beef Producers, Inc. at Toppenish & Yakima, WA to Bend, OR, Eugene, OR and Sublimity, OR and the Portland, OR commerical zone and points in CA for 180 days. A corresponding ETA has been approved and a permanent will be filed. Supporting shipper(s): Washington Beef Producers, Inc., Box 9344, Yakima, WA 98909. Send protests to: D. Merine Galbraith, T/A, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 149300 (Sub-1TA), filed November 2, 1979. Applicant: FRANK L. CASTINE, INC., d.b.a. CASTINE MOTOR SERVICE, 1235 Chestnut Street, Athol, MA 01331. Representative: Donald R. Castine (same address). Contract carrier: irregular routes: *Telephone equipment, materials and supplies, including tools and test sets used in the construction, maintenance and removal of telephone systems,* to and from all points in the Commonwealth of Massachusetts, under contract with New England Telephone Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New England Telephone Company, 99 High Street, Room 403, Boston, MA 02110. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 149341 (Sub-1TA), filed January 28, 1980. Applicant: McCOY FARM SERVICE CENTER, INC., P.O. Box 638, Highway 24, Davisboro, GA 31018. Representative: Harry S. Dent, P.O. Drawer 528, Suite 10.F, Jefferson Square, Columbia, SC 29202. *All types of dry-bulk fertilizer* from Augusta, GA to fertilizer delivery points in SC. Supporting shipper(s): International Minerals and Chemical Corp., Molly Pond Road, P.O. Box 937, Augusta, GA 30903. Send protests to: Sara K. Davis, T/A, Interstate Commerce Commission, 1252 West Peachtree Street NW., Suite 300, Atlanta, GA 30309.

MC 150001 (Sub-1TA), filed January 25, 1980. Applicant: AMERICAN TRANSPORT LINES, INC., 180 Allen Road, Atlanta, GA 30328. Representative: Robert E. Born, 1447 Peachtree Street NE., Suite 508, Atlanta, GA 30309. *Contract carrier,* over irregular routes, transporting *such commodities as are sold by department stores, hardware stores, and wholesale and retail mail order houses,* between the facilities of W. M. Industries, Inc., at Atlanta, GA, on the one hand, and, on the other, points in the US, except AK and HI, under a continuing bilateral contract or contracts with W. M. Industries, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. M. Industries, Inc., 5616 Peachtree Road, Atlanta, GA 30341. Send protests to: Sara K. Davis, T/A, Interstate Commerce Commission, 1252 West Peachtree Street NW., Suite 300, Atlanta, GA 30309.

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MC 488 (Sub-16TA), filed January 2, 1980. Applicant: BERMAN'S EXPRESS CO., 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same address as applicant). *Zinc, zinc dross, and zinc residues (except in bulk), materials, equipment and supplies, used in the manufacture and distribution of zinc, zinc dross, and zinc residues (except in bulk)* for the account of St. Joe Zinc Co. between ponts in CT, DE, MD, MA, NJ, NY, OH, PA, RI, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Zinc Co., Two Oliver Plasa Pittsburgh, PA 15222. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 2978 (Sub-20TA), field December 27, 1979. Applicant: CLE MAR CARTAGE, INC., P.O. Box 428, Cromwell, IN 46732. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Contract carrier:* irregular routes: *Paper, paper products, and materials and supplies used in the manufacturer thereof* between the facilities of Sonoco Products Co. located in the states of IN, IL, MI, KY, MO & OH on the one hand, and on the other, points in IL, IN, KY, MI, MO, OH and WI on and south of U.S. Hwy 151. Restricted to service to be performed under a contract or continuing contracts with Sonoco Products Co. for 180 days. Supporting shipper(s): Sonoco Products Co., Corporate Traffic Manager, Hartsville, SC 29550. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 8958 (Sub-37TA), filed November 29, 1979. Applicant: YOUNGSTOWN CARTAGE CO., 825 W. Federal St., Youngstown, OH 44501. Representative: Philip J. Cianciolo (same address as applicant). Steel reinforcing bars and accompanying bar chairs, bar spacers, bar ties, bar supports, clips, screed chairs, stirrup, tie chairs or bar chairs or spacers combined not to exceed 10% of agregate weight, between Strongsville, OH, on the one hand, and, on the other, points in KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bethlehem Steel Corp., Bethlehem, PA 18016. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 28088 (Sub-51TA), filed December 31, 1980. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., Washington, DC 20004. *Foodstuffs and commodities used in the production, storage, and distribution of foodstuffs (except in bulk),* between Hanover, PA, on the one hand, and, on the other, points in OH, MD, VA, WV, NY, NJ, DE, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hanover Brands, P.O. Box 334, RD #3, Hanover, PA 17371. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 35358 (Sub-55TA), filed January 9, 1980. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Drive N.E., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Table tops, furniture parts and upholstry materials,* from York, PA to Sheboygan, WI for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Thonet Furniture Company, 911 North 11th Street, Sheboygan, WI 50381. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 40898 (Sub-30TA), filed January 29, 1980. Applicant: S & W MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Petroleum and petroleum products, vehicles body sealers or sound deadening compounds, except in bulk* from the facilities of Quaker State Oil Refining Corp. at or near Emlenton and Farmers Valley, PA and Congo and St. Marys, WV to points in NC and SC, for 180 days. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 44469 (Sub-4TA), filed January 9, 1980. Applicant: WEST BEND TRANSIT & SERVICE CO., 105 Forest Avenue, P.O. Box 477. West Bend, WI 53095. Representative: Michael J. Collins, Wyngaard & Wilson, 150 E. Gilman St., Madison, WI 53703. *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 West Bend, WI and Kewaskum, WI over U.S. Hwy. 45 serving all intermediate points, for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): (Seven supporting shippers). Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 57778 (Sub-35TA), filed December 26, 1979. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Avenue, Detroit, MI 48209. Represenative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Foodstuffs* from Warren, MI to points in FL, GA, IL, IN, MA, MN, MO, NJ, OH, PA, TX, and WI; and *materials and supplies used in the manufacture and distribution of foodstuffs* from the above destination states to Warren, MI for 180 days. Supporting shipper(s): Prince Macaroni of Michigan, Inc., 26155 Groesbeck Hwy., Warren, MI 48089. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 73688 (Sub-108TA), filed October 15, 1979, and published in the **Federal Register** issue of December 10, 1979, and republished as corrected this issue. Applicant: SOUTHERN TRUCKING CORPORATION, P.O. Box 7195, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. *Meat, meat products, meat by-product 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 in bulk), from Mansfield, OH, to AL, CA, CT, FL, GA, IL, KY, LA, MD, MA, MO, NJ, NY, NC, PA, SC, TN, TX, VA and WA, for 180 days. Supporting shipper(s): Haring Meats, 1095 National Parkway, P.O. Box 2695, Mansfield, OH 44906. Send protests to: Floyd A. Johnson, Room 2006, 100 N. Main Street, Memphis, TN 38103. The purpose of this republication is to show California (CA) in lieu of Georgia (GA) published twice, and also to show the corréct spelling of New Jersey (NJ) in lieu of (MJ) as previously published.

MC 78228 (Sub-146TA), filed September 10, 1979, and published in the **Federal Register** issue of November 27, 1979, and republished as corrected this issue. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. *Iron and steel articles,* from the facilities of Eastern Stainless Steel Co., Div. of Eastmet Corp., at Baltimore, MD to points in AR, DE, IA, MO, NJ, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eastern Stainless Steel Co., Div. of Eastmet Corp., P.O. Box 1975, Baltimore, MD 21203. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106. The purpose of this republication is to show location of the field office

which protests may submitted as previously omitted.

MC 81908 (Sub-13TA), filed December 11, 1979. Applicant: GARNER TRUCKING, INC., Route #4, Findlay, OH 45840. Representative: John L. Alden, 1396 W. 5 Ave., Columbus, OH 43212. (1) *Fertilizer and fertilizer ingredients, except in bulk,* between the facilities of the Andersons at or near Maumee, OH, on the one hand, and, on the other, points in IN, IL, KY, MI, WV, and points in PA on and west of U.S. Highway 15; and (2) *Animal feed and animal feed ingredients,* between the facilities of The Andersons at or near Maumee, OH, on the one hand, and, on the other points in IN, IL, KY, MI, WV, and points in PA on the west of U.S. Highway 15, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Andersons, PO Box 119, Maumee, OH 43537. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 93649 (Sub-33TA), filed February 1, 1980. Applicant: GAINES MOTOR LINES, INC., PO Box 1549, Hickory, NC 28601. Representative: Forest M. Gaines, (same as above). *Commodities dealt in by drug and cigar stores and their related component parts and raw materials* from New York, NY and points in NJ within 50 miles of Columbus Circle, NY; Philadelphia, PA and Baltimore, MD to Sanford, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pfizer, Inc., Coty Division, PO Box 1026, Sanford, NC 27330. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm CC516, Charlotte, NC 28205.

MC 99919 (Sub-8TA), filed January 28, 1980. Applicant: FREMONT EXPRESS, INC., P.O. Box Q, 620 E. Factory, Fremont, NE 68025. Representative: Scott T. Robertson, 521 S. 14th St., Suite 500, P.O. Box 81849 Lincoln, NE 68501. *Agricultural chemicals and materials and supplies used in the manufacture, packaging, sale and distribution of agricultural chemicals* from AZ, CO, ID, IL, IN, IA, KS, KY, LA, MN, MO, MI, MT, ND, OK, SD, TN, TX, UT, WI and WY to the facilities used by American Cyanamid at or near Fremont, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid, R. J. Van Nostrand, Transportation Manager, Agricultural Division, P.O. Box 400, Princeton, NJ 08540. Send protests to D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 100449 (Sub-120TA), filed January 9, 1980. Applicant: MALLINGER TRUCK LINE, INC., Rural Route 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, 1980 Financial Ctr., Des Moines, IA 50309. *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Swift & Company at Sioux City, Glenwood, and Marshalltown, IA; Omaha, NE; Kansas City, KS; Kansas City, MO; East St. Louis, Rochelle, St. Charles, Bradley, and Chicago, IL; Belmont, Ft. Worth, Dallas, Cactus, and San Antonio, TX; Guymon, OK; and Clovis, NM, to points in AR, CO, IL, IN, IA, KS, LA, MI, MN, MS, MO, NE, ND, NM, OK, SD, TN, TX, and WI, for 180 days. Supporting shipper(s): Swift & Co., 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 100449 (Sub-121TA), filed January 9, 1980. Applicant: MALLINGER TRUCK LINE, INC., Rural Route 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Ctr., Des Moines, IA 50309. *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Dubuque Packing Company at LeMars, Sioux City, and Denison, IA, to points in AR, IN, KY, LA, MI, NM, OK, TX, and WI, for 180 days. Supporting shipper(s): Dubuque Packing Company, Box 340, LeMars, IA 51031. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 103798 (Sub-50TA), filed December 21, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Foodstuffs (except in bulk)* from the facilities of Land O'Lakes, Inc. at or near Hudson, IA to points in IL, MO, KS, and NE for 180 days. Supporting shipper(s): Land O'Lakes, Inc., 614 McKinley Place Minneapolis, MN 55413. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 106398 (Sub-1060TA), filed January 31, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). (1) *Buildings, complete, knocked down, or in section,* and (2) *materials and supplies used in the manufacture of buildings,* (1) from the facilities of Star Manufacturing located at Cedartown, GA, to points in CO, MT, ID, ND, OK, TX, WY, UT, WA, and OR; and (2) between the facilities of Star Manufacturing at Cedartown, GA; Oklahoma City, OK; and Homer City, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Star Manufacturing Company, 500 Tenth St., Cedartown, GA 30125. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1061TA), filed February 1, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Lumber, lumber mill products, paneling, plywood and building materials,* from the facilities of Galveston Wharves located at Galveston, TX to points in OK, LA, TX, NE, MS, NM, AZ, MO, KS, and AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Board of Trustees of the Galveston Wharves, 802 25th Street, Galveston, TX 77550. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd Street, Oklahoma City, OK 73102.

MC 107478 (Sub-61TA), filed January 23, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Dr., High Point, NC 27261. Applicant: Jerry K. Neal (same as above). *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,* between Memphis, TN and Birmingham, AL, on the one hand, and, on the other, Atlanta, GA; Charlotte, NC and New York, NY, for 180 days. RESTRICTED to the transportation of traffic having an immediate prior or subsequent move by air. An underlying ETA seeks 90 days authority. Supporting shipper(s): Danzas Commercial Delegation, Inc., 5950 Fairview Rd., Charlotte, NC 28210. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm. CC516, Charlotte, NC 28205.

MC 107478 (Sub-62TA), filed January 18, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., PO Box 2006, High Point, NC 27261. Representative: C. T. Harris, 506 Mayo St., PO Box 999, Wilson, NC 27893. *Iron and steel articles* from the facilities of Exposaic Wire Company, located at Mt. Airy, NC to points in IN, IL and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Exposaic Wire Company, PO Box 1122, Mt. Airy, NC 27030. Send protests to: Sheila Reece, T/

A, 800 Briar Creek Rd.—Rm. CC516, Charlotte, NC 28205.

MC 107678 (Sub-79TA), filed January 31, 1980. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown (same as above). (1) *Grain Milling and Processing Machinery and components;* (2) Machinery and Supplies used in the manufacturer of commodities in (1) above between the facilities of Ferrell-Ross, Inc., at or near Amarillo, TX on the one hand, and, on the other, points in the US including AK but excluding HI for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Ferrell-Ross, Inc., 6516 South Washington, Amarillo, TX 79120. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102.

MC 108119 (Sub-238TA), filed January 8, 1980. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Bentonite clay in bags* from the facilities of American Colloid Company at Belle Fourche, SD, Upton and Lovell, WY to Calexico, CA, OK and TX for 180 days. Supporting shipper(s): American Colloid Co., P.O. Box 228, Skokie, IL 60077. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 108589 (Sub-28TA), filed December 31, 1979. Applicant: EAGLE EXPRESS CO., P.O. Box 12047, Lexington, KY 40580. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Common carrier, 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 Danville, KY and Lexington, KY, serving Harrodsburg, KY as an intermediate point and Junction City, KY as an off-route point; from Danville, KY over U.S. Hwy 127 to Junction U.S. Hwy 68, thence over U.S. Hwy 68 to Lexington and return over the same route; (2) Alternate route for operating convenience only: between Danville, KY over KY Hwy 34 to Junction U.S. Hwy 27, and then over U.S. Hwy 27 to Lexington, and return over the same route, for 180 days. Restriction: In connection with the routes described immediately above, no service is to be rendered to or from Louisville, KY and its commercial zone. Supporting shipper(s): There are 5 supporting shippers. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 113678 (Sub-844TA), filed October 3, 1979, and published in the **Federal Register** issue of December 10, 1979, and republished as corrected this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Frozen and chilled foodstuffs,* from Vernon, CA, and its commercial zone, to points in GA, IL and VT (representative destinations—Atlanta, Macon, Columbus, GA; Chicago, Springfield, Rockford, IL; Salt Lake City, Ogden, and Provo, UT), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alex Xlnt Foods, Inc., 2750 E. 50th Street, Vernon, CA 90058. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202. The purpose of this republication is to show the destination state of Utah (UT) in lieu of Vermont (VT) as previously published.

MC 113828 (Sub-282TA), filed January 10, 1980. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Alcohol* in bulk, in tank vehicles, from Williamsburg, VA to Baltimore, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Brands Incorporated, 1900 Brand Ave., Baltimore, MD 21209. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 113908 (Sub-449TA), filed January 28, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Rd., P.O. Box 10068, Springfield, MO 65804. Representative: B. B. Whitehead, P.O. Box 10068, Springfield, MO 65804. *Chemical N.O.I., in bulk,* from Newport, TN and the commercial zone thereof to points in CA and AZ. Supporting shipper(s): Arapahoe Chemical, Inc., 2075 N. 55th St., Boulder, CO 80301. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th, Suite 600, Ft. Worth, TX 76102.

MC 113908 (Sub-500TA), filed January 31, 1980. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068, Springfield, MO 65804. Representative: Jim G. Erickson, 2255 N. Packer Rd., Springfield, MO 65804. *Vinegar, vinegar stock and vinegar stock concentrates, in bulk,* from Los Angeles, Orange, Riverside, San Bernardino, San Francisco, and San Mateo Counties, CA to Manitowoc, WI and the commercial zone thereof, for 180 days. Supporting shipper(s): American Industries, Corp., 2045 McKinnon Ave., San Francisco, CA. 94124. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Suite 600, Ft. Worth, TX 76102.

MC 114569 (Sub-352TA), filed October 30, 1979, and published in the **Federal Register** issue of January 7, 1980, and republished as corrected this issue. Applicant: SHAFFER TRUCKING, INC., P.O. 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). *Such commodities as are dealt in or used by manufacturers of foodstuffs and food business houses* except commodities in bulk, in tank vehicles, (1) between points in CA, GA, IL, IN, MI, NY, OR, PA, TX and WA; and (2) from Pottstown, PA to points in the states of MN, MO, NE and WI for 180 days. Restricted to traffic originating at or destined to the facilities of Mrs. Smith's Pie Co. Supporting shipper(s): Mrs. Smith's Pie Co., Box 298, Pottstown, PA 19464. Send protests to: ICC, 101 N. 7th Street, Philadelphia, PA 19106. The purpose of this republication is to show Washington (WA) in lieu of West Virginia (WV) as previously published.

MC 115669 (Sub-196TA), filed December 13, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicant). *(1) Salt and salt products and (2) materials and supplies used in agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, when shipped in mixed loads with commodities named in (1) above,* from the facilities of Lake Crystal Salt Company, a subsidiary of Processed Minerals, Inc. at or near Sales and Ogden, UT to points in AZ (except Phoenix); CO (except Denver and Hudson); IA (except Fort Dodge); KS, MN, NE (except Fremont, Grand Island, Lincoln, McCook, Norfolk, North Platte and Omaha); and SD (except Rapid City) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lake Crystal Salt Company, Subsidiary of Processed Minerals, Inc., Guy Mallonee, Jr., Vice President, Transportation, 720 Exchange Lane, Box 1149, Ogden, UT 84402. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 115669 (Sub-197TA), filed January 18, 1980. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicant). *Wheat starch* from the facilities of New Era Milling Company at Arkansas City, KS to Dickinson, ND for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilbert Jackson Co., Inc., H. H. Linton, President, 7208 West 80th, Room 201, P.O. Box 4667, Overland Park, KS 66204. Send protests

to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 116319 (Sub-15TA), filed January 31, 1980. Applicant: WASHINGTON TRUCKING, INC., P.O. Box 107, Darrington, WA 98241. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Urea and ammonium nitrate and sulphate in bulk,* from St. Helens and Portland, OR to Rochester and Monroe, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wolfkill Feed & Fertilizer Co., 217 Stretch St., Monroe, WA 98272. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 117119 (Sub-812TA), filed January 25, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, P.O. Box 188, Elm Springs, AR 72728. *Such commodities as are dealt in or used by retail stores (except foodstuffs and commodities in bulk)* (a) from points in MA, CT, NY, NJ, PA, MD, GA, TN, and TX to points in MO, KS, CO, MT, ID, OR, WA, WY, and UT and (b) from points in IN, OH, and Chicago and Rockford, IL to points in CO, MT, WY, UT, ID, WA, and OR, restricted in (a) and (b) to traffic originating and destined to the facilities of Modern Merchandising, Inc. or its subsidiaries, for 180 days. Supporting shipper(s): Modern Merchandising, Inc., 5101 Shady Oak Road, Minnetonka, MN 55343. Send protests to: Marianne Minnich, TCS, ICC, Suite 600, 411 W. 7th St., Ft. Worth, TX 76102.

MC 117119 (Sub-813TA), filed January 28, 1980. Applicant: WILLIS SHAW FROXEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, Asst. Dir. of Commerce, P.O. Box 156, Mt. Laurel, NJ 08054. *Cleaning compounds, washing compounds and sodium bicarbonate* from Green River, WY to points in ID, WA, and OR for 180 days. Supporting shipper(s): Church & Dwight Co. Inc., P.O. Box 369, Piscataway, NJ 08854. Send protests to: Marianne Minnich, TCS, ICC, Suite 600, 411 W. 7th, Ft. Worth, TX 76102.

MC 118089 (Sub-39TA), filed January 28, 1980. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Ave C, P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *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 Description 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 and Friona, TX to points in AZ, CA, OR, and WA, for 180 days. Supporting shipper(s): MBPXL Corporation, 2901 N. Mead, Wichita, KS 67201. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th, Suite 600, Fort Worth, TX 76102.

MC 118989 (Sub-234TA), filed January 3, 1980. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Eugene R. Kraklow, Jr., 5223 S. 9th St., Milwaukee, WI 53221. *Metal containers* from the facilities of Continental Group, Inc. at Atlanta and Perry, GA to Chicago, IL and Milwaukee, WI for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Continental Group, Inc., 5401 W. 65th St., Chicago, IL 60638. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 119399 (Sub-126TA), filed January 25, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Thomas P. O'Hara, 2900 Davis Blvd., Joplin, MO 64801. *Cleaning, scouring and washing compounds* from Joliet, IL and Delaware, OH to points in KS and MO, for 180 days. Supporting shipper(s): Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City, KS 66106. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th, Suite 600, Fort Worth, TX 76102.

MC 119619 (Sub-143TA), filed November 28, 1979, and published in the **Federal Register** issue of March 3, 1980, and republished as 2nd correction this issue. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, IL 60609. Representative: Piken and Piken, Inc., Queens Office Tower, 95–25 Queens Boulevard, Rego Pk, NY 11374. *Foodstuffs* (except in bulk), from the facilities utilized by Purity Cheese Co., a Div. of Anderson Clayton Co. at Mayville, WI, to points in CT, DC, DE, MA, MD, ME, NH, NJ, NY, OH , PA RI, WA, VT, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Purity Cheese Co., Division of Anderson Clayton Co., P.O. Box 226165, Dallas, TX 75266. Send protest to: Transportation Assistant, ICC, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to add the destination states of Massachusetts (MA) and New York (NY) as previously ommitted.

MC 119988 (Sub-238TA), filed January 21, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Foodstuffs,* between San Antonio, TX, on the one hand, and, on the other points in the U.S. (except those in AK, AZ, CA, CO, HI, NV, NM, OR and WA.), for 180 days. Underlying ETA filed. Supporting shipper(s): Gebhardt Mexican Foods Co., P.O. Box 7130A-Station A San Antonio, TX 78285. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Suite 600, Fort Worth, TX 76102.

MC 123389 (Sub-51TA), filed January 31, 1980. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Such commodities as are dealt in by wholesale and retail food and drug businesses (except commodities in bulk)* between the facilities of Protor & Gamble Distributing Company at or near Chicago, IL, on the one hand and on the other points in IA, MN and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Proctor & Gamble Distibuting Company, Dennis C. Chipman, Traffic Analyst, P.O. Box 599, Cincinnati, OH, 599, Cincinnati, OH 54201. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-216TA), filed December 20, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Paper and paper products* from Erie and Lock Haven, PA and Oswego, NY to points in AZ, CA, OR and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hammermill Paper Company, H. LeRoy Weidner, Manager, Corp. Transp., P.O. Box 1440, Erie, PA 16512. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-217TA), filed January 8, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). *Paper, paper products, woodpulp, plastic, plastic articles, polyethylene and materials, equipment and supplies used in the manufacture and distribution of the named products (except commodities in bulk, in tank vehicles)* between the facilities of International Paper Company located in and east of the states of CO, MT, NM and WY on the one hand, and on the other, points in the United States (except AK and HI) for 180 days.

Restricted to traffic originating at or destined to the facilities of International Paper Company. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, Daniel E. Loughnane, Supervisor Motor Carrier/Barge Pricing Analysis, 220 E. 42nd St., New York, NY 10017. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-218TA), filed January 30, 1980. Applicant: CRETE CARRIER CORPORTATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Paper and paper products* from New York, NY and points in its commercial zone to Orlando, FL and points in its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Palmer Paper Co., C. A. Atkins, Jr., General Manager, P.O. Box 5876, Orlando, FL 32855. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-219TA), filed January 31, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Such commodities as are used by and dealt in by manufacturers and distributors of automobile parts and accessories* between the facilities of Perfect Equipment Corp. at Murfreesboro, TN on the one hand, and on the other, points in the United States (except AK, HI and TN) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Perfect Equipment Corp., Cecil Porch, Vice President Administration, 855 Scott St., Murfreesboro, TN 37130. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-220TA), filed January 31, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). *Such commodities as are dealt in and used by manufacturers of electrical items (except in bulk)* between Fort Wayne, IN and its commercial zone on the one hand, and on the other, points in the United States (except IN, HI and AK) for 180 days. Restricted to traffic originating at or destined to the facilities of General Electric Company. Supporting shipper(s): General Electric Company, Roger D. Borne, Traffic Manager, Component Business Division Support Operation, 2000 Taylor St., Ft. Wayne, IN 46804. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-221TA), filed January 2, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Such commodities as are used by and dealt in by manufacturers of expanded polystyrene products* between the facilities of Dolco Packaging Corporation at or near Decatur, IN on the one hand, and on the other, points in the United States on and east of U.S. Highway 85 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dolco Packaging Corporation, David Brown, Plant Manager, Decatur, IN. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-222TA), filed January 11, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Such commodities as are used by and dealt in by manufacturers and distributors of bedroom furniture* from points in CA; Phoenix and Lake Havasu City, AZ and points in their respective commercial zones to points in the United States on and east of U.S. Highway 85 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): BABA'S Waterbeds, Robert Elvin, Controllor, 4200 Harding Ind. Dr., Nashville, TN 37211. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-223TA), filed January 14, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Clay and clay products* from Thomas County, GA to points in NC and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Waverly Mineral Products Company, Bruce Hochman, Traffic Manager, 3018 Market Street, Philadelphia, PA 19104. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-224TA), filed January 23, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *General commodities (except explosives, household goods, items which because of size or weight require the use of special equipment, and commodities in bulk, in tank vehicles)* between the facilities utilized by W. W. Grainger, Inc. at points in the Chicago, IL commercial zone on the one hand, and on the other, points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. W. Grainger, Inc., William J. Meehan, Transportation Operations Manager, 4949 W. Howard St., Chicago, IL 60648. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-225TA), filed January 28, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Food products (except in bulk)* (1) from Northfield, IL and points in its commercial zone to Liverpool, NY; Boston, MA; St. Louis, MO; Kansas City, MO; Fostoria, OH; Dallas, TX; Omaha, NE; Jacksonville, FL; Milwaukee and Portland, OR; and Chattanooga, TN and points in their commercial zones; and (2) from Fostoria, OH and points in its commercial zone to Liverpool, NY; Boston, MA; St. Louis, MO; Dallas, TX; Chicago, IL; Kansas City, MO; Omaha, NE; Jacksonville, FL; Milwaukee and Portland, OR; and Chattanooga, TN and points in their commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foremost McKesson, Inc., James A. Rosen, Traffic Manager, Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protest to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-228TA), filed September 19, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *(1) Wooden cabinets, vanities and accessories; (2) Such materials and supplies as are used in the manufacture, distribution, installation and sale thereof* from Goshen, IN to points in the United States east of IA, MN, MO, NM and OK (except AK, HI, ME, NH and VT) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Home-Crest Corporation, James C. Bowser, Traffic Manager, 1002 Eisenhower Drive, Goshen, IN 46526. Send protest to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 129459 (Sub-18TA), filed January 25, 1980. Applicant: KEARNEY'S TRUCKING SERVICE, INC., P.O. Box 264, Portland, PA 18351. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Contract carrier, irregular route, *foodstuffs* (except in bulk), from the facilities of Globe Products Co., Inc., Clifton, NJ to points in PA, OH and MI, for 180 days. An underlying ETA

requests 90 days authority. Supporting shipper(s): Globe Products Co., Inc., P.O.B. 1927, 55 Webro Rd., Clifton, NJ 07015. Send protests to: ICC, 620 Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 129729 (Sub-7TA), filed December 14, 1979. Applicant: FRANCIS J. BEAROFF, INC., Swedeland Rd., P.O. Box 195, King of Prussia, PA 19406. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. and Cottman St., Jenkintown, PA 19046. *Coke, in bulk,* from the facilities of Keystone Coke Company, located in the Village of Swedeland, Montgomery County, PA to points in the state of NY, and the return of empty containers to the point of origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Coke Company, P.O. Box 10246, Birmingham, AL 35202. Send protests to: ICC, 101 n. 7th St., Philadelphia, PA 19106.

MC 133099 (Sub-14TA), filed January 16, 1980. Applicant: THE GLASGOW & DAVIS CO., P.O. Box 1717, Salisbury, MD 21801. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. *Foodstuffs* (except frozen and except in bulk), (1) from MD to AL, CT, CO, DC, FL, GA, IL, IN, KY, MA, ME, MI, NC, NJ, NY, OH, PA, RI, SC, VA, and WV, and (2) from DE to AL, CA, CO, CT, FL, GA, IL, IN, KY, MA, MD, ME, MI, MN, MS, NC, NE, NJ, NY, OH, PA, SC, TN, TX, VA, WI, and WV, for 180 days. Supporting shipper(s): Cannon Foods, Bridgeville, DE 19933; Kings Creek Canning Co., Princess Anne, MD 21853; Williamsburg Canning Co., Williamsburg, MD 21674. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 133689 (Sub-329TA), filed January 17, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Maples St., N.E., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such merchandise as is dealt in by manufacturers and distributors of health and beauty aids, cosmetics, personal care items, and advertising materials and displays (except commodities in bulk)* from Edison, Metuchen, East Brunswick, South Plainfield, and South Brunswick, NJ to Cleveland, Dayton and Columbus, OH; Detroit, Michigan and Chicago, IL and points in their commercial zone as defined by the Commission for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Revlon, Route 27 & Talmadge Road, Edison, NJ 08817. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 133689 (Sub-330TA), filed January 18, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Maples St., N.E., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Candy and confectionery, NOI and cough drops except in bulk* from the facility of Luden's, Inc., at Reading, PA to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN, VA, WV and WI for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Luden's, Inc., 200 N. 8th St., Reading, PA. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 135069 (Sub-5TA), filed November 13, 1979, and published in the **Federal Register** issue of January 21, 1980, and republished as corrected this issue. Applicant: ROCKAWAY TRUCKING, INC., Route 46, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Contract carrier, irregular routes: *Trichloromonofluoromethane, dichlorodifluoromethane, and monochlorodifluoromethane gases,* in containers, between Wichita, KS on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Racon, Incorporated, 6040 South Ridge Road, Wichita, KS 67201. Send protests to: Joel Morrows, ICC, 744 Broad Street, Room 522, Newark, NJ 07102. The purpose of this republication is to include the state of Maryland (MD) as previously omitted.

MC 135078 (Sub-67TA), filed January 2, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street. Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Brushes, hand tools, wooden handles NOI and hole saws* from the commercial zone of Westboro, MA to the commercial zones of Chicago, IL; Connersville and Hammond, IN; Detroit, MI; Pittsburgh, PA; Cleveland, OH; and Houston, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bay State Abrasives, Division of Dresser Industries, Inc., Frank Ciannella, Traffic Manager, 15 Union Street, Westboro, MA 01581. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 135539 (Sub-21TA), filed December 31, 1979. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 154, Marengo, IL 60152. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Road West, Suite 406, Bradenton, FL 33507. *Contract carrier:* irregular route: *Railroad car parts, brake beams and parts, materials, accessories and supplies used in the manufacture of railroad cars* from Woodstock, IL to Washington, IN for 180 days. Supporting shipper(s): Evans Products Co./Creco Division, 14512 Washington St., Woodstock, IL 60098. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 136008 (Sub-118TA), filed January 28, 1980. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, 2900 N. Shields, Moore, OK 73153. *Bentonite,* in bulk, in tank vehicles, from Natrona County, WY, to Kingsport, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCabe-Woody and Company, Inc., 4717 S. Yale, Tulsa, OK 74135. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-119TA), filed February 1, 1980. Applicant: JOE BROWN COMPANY, INC., 20 Third Street, N.E., Ardmore, OK 73401. Representative: John Tipsword, 2900 N. Shields, Moore, OK 73153. *Granulated asphalt,* bulk, in dump vehicles, from Augusta, KS, to Crown Point, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gunning Refractories, 816 E. Porter St., Crown Point, IN 46307. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136828 (Sub-33TA), filed January 28, 1980. Applicant: COOK TRANSPORTS, INC., P.O. Box 6362–A, Birmingham, AL 35217. Representative: Ocie M. Cook, Jr. (same address as applicant). *Alcoholic beverages, equipment, materials and supplies used in or in connection therewith,* from points in the United States to AL. Supporting shipper(s): Alcoholic Beverage Control Board of the State of Alabama, P.O. Box 1151, Montgomery, AL 36130. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 136898 (Sub-8TA), filed January 31, 1980. Applicant: BAKER TRANSPORT, INC., P.O. Box 678, Hartselle, AL 35640. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *(1) Aluminum and aluminum products,* from Hot Spring County, Garland County, and Clark County, Arkansas to points in the United States in and east of ND, SD, NE, KS OK and TX; and *(2) Materials and supplies used in the manufacture or distribution of*

aluminum and aluminum products (except commodities in bulk, in tank vehicles), from points in the United States in and east of ND, SD, NE, KS, OK and TX to Hot Spring County, Garland County, and Clark County, Arkansas, for 180 days. Supporting shipper(s): Reynolds Metals Co., P.O. Box 128, Malvern, AR 72104. Send protests to: Mabel E. Holston, TA, ICC, Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 138279 (Sub-16TA), filed January 30, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske, P.O. Box 968, Jackson, TN 38301. *Copper and copper products (except commodities in bulk in tank or hopper vehicles),* from Wynne, AR to Dallas, TX; Elyria, OH; Galesburg, IL; Houston, TX; Louisville, KY; Memphis, TN; Norman, OK; York, PA; and points in their respective commercial zones under continuing contract or contracts with Cambridge-Lee Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cambridge-Lee Industries, Inc., 500 Lincoln St., Boston, MA 02134. Send protests to: Diana J. Porter, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 138308 (Sub-104TA), filed January 29, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Alcoholic beverages* (except in bulk, in tank vehicles) from points in the states of CA, FL, IL, IN, KY, LA, MI, NJ, NY, OH and TN to Jackson, MS, for 180 days. Supporting shipper(s): State of Mississippi, ABC Division, Chairman, State Tax Commission, P.O. Box 2282, Woolfolk State Office Bldg., Jackson, MS 39205. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138308 (Sub-105TA), filed January 30, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. 22628, Jackson, MS 39205. *Ground clay, bagged* from Gonzales, TX to the facilities of Filtrol Corporation at Jackson, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Filtrol Corp., P.O. Box 8337, Jackson, MS 39204. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138308 (Sub-106TA), filed January 30, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39205. Representative: Donald B. Morrison, P.O. 22628, Jackson, MS 39205. *Pneumatic rubber tires and rubber tire tubes* from the facilities of The Cooper Company at or near Texarkana, AR to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY for 180 days. Supporting shipper(s): The Cooper Tire Company, P.O. Box 550, Findlay, OH 45840. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138308 (Sub-107TA), filed January 30, 1980. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. 22628, Jackson, MS 39205. *Cookware,* from Madison County, MS to points in CA, CO, GA, MA and TX, for 180 days. Supporting shipper(s): Regal Ware, Inc., P.O. Box 300, Flora, MS 39071. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138328 (Sub-113TA), filed December 20, 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. *Such commodities as are used by or dealt in by retail and discount stores (except used household goods as defined by the Commission, commodities in bulk, in tank vehicles or those which by reason of size or weight require the use of special equipment)* between Omaha, NE on the one hand, and on the other, Des Moines, IA for 180 days. Restricted to shipments originating at or destined to the facilities of Richman Gordman Stores and/or Half Price Stores, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Half Price Stores, Inc., Richman Gordman Stores, Inc., William G. O'Brien, Traffic Manager, 9202 "F" St., Omaha, NE 68127. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138328 (Sub-114TA), filed January 21, 1980. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, P.O. Box 37308, I–80 & Hwy 50, Omaha, NE 68137. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. *Macaroni products* (1) between the facilities of Skinner Macaroni Co., Division of Hershey Foods Corp. at Omaha, NE and points in PA; and (2) from Louisville, KY to the facilities of Skinner Macaroni Co., Division of Hershey Foods Corp. at Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Skinner Macaroni Co., George W. Boand, Traffic Manager, Omaha, NE. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138438(Sub-79TA), filed December 21, 1979. Applicant: D. M. Bowman, Inc. Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Building materials and materials, equipment and supplies used in the manufacture, installation, and distribution of building materials,* between Quakertown, PA, and its commerical zone, on the one hand, and, on the other, points in and east of OH, KY, TN, and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia Pacific Corporation, 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 138469 (Sub-215TA), filed January 31, 1980. 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. *Foodstuffs, canners supplies, equipment and commodities used or useful in the packing, sale and distribution of the above commodities,* between the plant site of Gerber Products Company, located at Fort Smith, AR, on the one hand, and, on the other all points in the states of CA, CO, IL, IA, KS, KY, LA, MI, MO, MS, NE, NM, NY, NC OK, SD, TN, TX, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gerber Products Company, 445 State Street, Fremont, MI 49412. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-216TA), filed January 25, 1980. 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. *New furniture,* from Fort Worth, TX and points in its commercial zone, to points in AZ, CA, CO, & KS, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B H & W Manufacture Company, 5901 Eden Drive, Fort Worth, TX 76117; C & S Woodcrafters, 5217 Azle Avenue, Fort Worth, TX 76114. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138878 (Sub-10TA), filed December 26, 1979. Applicant; John S. Watson d.b.a. JOHN S. WATSON TRUCKING CO., Route 2, Box 94, Weston, WV 26452. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Conveyor structures* from Clarksburg, WV to

points in KY and TN, for 180 days. Supporting shipper(s): Harrison Conveyor Corp., Box 187, Clarksburg, WV 26301. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 140829 (Sub-344TA), filed December 3, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk in tank cars, and those because of size requiring special equipment)* from the facilities of Charter Oak Shippers Cooperative Association, Inc. at or near Berlin, CT to points in AR, IN, MO, OH, OK and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charter Oak Shippers Cooperative Assoc., Inc., Louis J. Peccerillo, Vice President & General Manager, One Parkland Dr., Darien, CT 06820. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-345TA), filed December 3, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *General commodities and foodstuffs (except in bulk, in tank vehicles)* from the facilities of Federal Warehouse Co. at Peoria, IL to points in IA, MN, MO, ND, SD and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Warehouse Co., J. W. Peacock, Traffic Manager, 200 National Road, East Peoria, IL 61611. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-346TA), filed January 4, 1980. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *(1) Foodstuffs, health beauty aids, cleaning compounds, kitchen gadgets, dog food, coffee, tea, candy, nuts (except in tank vehicles)* from Chicago, IL to points in CO, CT, KS, MA, MO, NE, NJ, OH, PA, RI, and TX and *(2) Cheese (except in bulk in tank vehicles)* from Green Bay, Lena and Portage, WI to points in CO, CT, KS, MA, MO, NE, NJ, OH, PA, RI, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Topco Associates, Inc., Joseph L. Stalec, Traffic Manager, 7711 Gross Point Road, Skokie, IL 60077. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha NE 68102.

MC 140829 (Sub-347TA), filed January 29, 1980. Applicant: CARGO, INC., P.O. Box. 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *Synthetic resin, granular (except in bulk, in tank vehicles)* from Grand Prairie, TX to points in IL, IN, MI, MN, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CIBA-GEIGY Corporation, Serce R. Lopoukhine, Manager Domestic Traffic Operations, Ardsley, NY 10502. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141489 (Sub-13TA), filed January 2, 1980. Applicant: HUNTER TRUCKING, INC., 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Iron and steel, and iron and steel articles* from Chicago, IL and its commercial zone to the facilities of Lozier Store Fixtures, Inc. located at or near Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lozier Store Fixtures, Inc., Kathy Dean, Traffic manager, 4401 North 21st Street, Omaha, NE 68110. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141599 (Sub-10TA), filed September 6, 1979. Applicant: MOUNTAIN PACIFIC TRANSPORT (EDMONTON) LTD. d.b.a. SHADOW LINES, 241 School House Road, Coquitlam, B.C. Canada V3K4X9. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Lime in sacks,* from Ports of Entry on the U.S./Canada International Boundary Line at or near Oroville, WA to Wenatchee, Oroville, Tonasket, Malott and Chelan, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Steel Bros., Ltd, 4836 6th St. N.E., Calgary, Alberta, Canada T2E3Z9. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 142269 (Sub-10TA), filed January 29, 1980. Applicant: EAGLE HAWK CORP., Box 155, Fort Dodge, IA 50501.Representative: Thomas E. Leahy, Jr., 1980 Financial Ctr., Des Moines, IA 50309. *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in descripttions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Iowa Beef Processors at Fort Dodge, IA, to points in IL and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 142449 (Sub-8TA), filed January 31, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46624. *Cloth, not woven—synthetic; filters N.O.I., air-filtering pads; vehicle body padding or seats; plastic or rubber padding, cellular, expanded; and materials and supplies thereto* between Michigan City, IN, on the one hand, and, points and places in the state of IA on the other for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Fibre Bond, 110 Menke Road, Michigan City, IN 46360. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142508 (Sub-138TA), filed December 3, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat products* from the facilities of Prime Meat Processors, at Omaha, NE to points in CT, DE, IL, MA, MI, MD, MO, NJ, NY, OH, PA and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Prime Meat Processors, Inc., William B. Winfield, Jr., Food Service Sales Manager, 1202 Jones Street, Omaha, NE 68102. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-139TA), filed December 3, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Dressing, salad, other than dry* from the facilities of Swiss Chalet Food Products Co. in Wichita, KS to Franchise services located in Atlanta, GA and Orlando, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, Beverly Ruth Mitchell, Staff Traffic Manager, 1221 Broadway, Oakland, CA 94612. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-140TA), filed December 12, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, Omaha, NE 68137. Representative: L. N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Foodstuffs, equipment, materials and supplies used in the manufacture of foodstuffs* from points in CA, MN, NY, NJ, OH and

Chicago, IL; Sioux City, Grundy Center, IA; Benton Harbor and Holland, MI; and Omaha, NE to the facilities of Kaukauna Klub Cheese at Little Chute, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaukauna Klub Cheese, Donald A. Welch, Distribution Manager, P.O. Box 229, Kaukauna, WI 54130. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-141TA), filed January 31, 1980. Applicant: NATIONAL TRANSPORTATION INC., 10810 South 144th Street, Omaha, NE 68137. Representative: L. N. Fauss, P.O. Box 37096, Omaha, NE 68137. *(1) Frozen bakery products* between the facilities of Bagels Forever in Madison and Milwaukee, WI; Chicago, IL; and Minneapolis, MN on the one hand, and on the other, points in CO, CT, IL, IN, IA, MN, MA, NH, NY, OH, PA and TX; and *(2) Materials, and supplies used in the manufacture of frozen bakery products* from points in MN to Madison, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bagels Forever, Barry Berman, President, P.O. Box 5547, Madison, WI 53705. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-142TA), filed January 2, 1980. Applicant: NATIONAL TRANSPORTATION INC., 10810 South 144th Street, Omaha, NE 68137. Representative: L. N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Fruit and berry products* from the facilities of Ocean Spray Cranberries at Montgomery, AL to points in AR, GA, KS, KY, LA, MS, TX, OK and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Florence Quick, Traffic Manager, 7800 60th Avenue, Kenosha, WI 53142. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-143TA), filed January 2, 1980. Applicant: NATIONAL TRANSPORTATION INC., 10810 South 144th Street, Omaha, NE 68137. Representative: L. N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Plastic and wrapping articles* from the facilities of Presto Products at Lewiston, UT to points in OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Presto Products, Incorporated, Gary Miller, Distribution Coordinator, P.O. Box 2399, Appleton, WI 54913. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-145TA), filed December 3, 1979. Applicant: NATIONAL TRANSPORTATION INC., 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *(1) Foodstuffs, pet foods, and animal feeds; (2) Such commodities that are used in the processing, milling, packaging, manufacturing or sale of foodstuffs, pet foods and animal feeds (except commodities in bulk, in tank vehicles)* between Chattanooga, TN; Elwood, KS; Fort Dodge, IA; Fort Wayne, IN; Garland, TX; Kokomo, IN; Jefferson, WI; Mechanicsburg, PA; Milwaukee, WI; Rochelle, IL; St. Joseph, MO; Trenton, MO; Waverly, IA and points in the United States in and east of ND, SD, CO, OK and TX for 180 days. Restricted to traffic originating or terminating at the facilities of The Carnation Company. Supporting shipper(s): The Carnation Company, Michael L. Whitehead, Asst. Manager of Transportation, 5045 Wilshire Boulevard, Los Angeles, CA 90036. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142559 (Sub-148TA), filed December 6, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. (1) *Aluminum and zinc allowy ingots, and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above* (except commodities in bulk), between points in and east of ND, SD, NE, CO, and NM, for 180 days, restricted to traffic originating at or destined to the facilities of Aluminum Smelting and Refining Co., Inc. and Certified Alloys Company. Supporting shipper(s): Aluminum Smelting & Refining Co., Inc., 5463 Dunham Rd., Maple Hts., OH 44137. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 142559 (Sub-149TA), filed December 21, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. (1) *Personal care products, chewing gum, cough drops, and candies and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above* (except commodities in bulk) between points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities of Warner-Lambert Company, for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Warner-Lambert Company, 201 Tabor Rd., Morris Plains, NJ 07950. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 142559 (Sub-150TA), filed December 31, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. (1) *Such commodities as are dealt in by animal and pet stores, and (2) materials and supplies used in the manufacture, sale and distribution of the commodities described in (1) above,* (except commodities in bulk) between Canton, GA, on the one hand, and, on the other, points in the United States, except AK and HI, for 180 days. Supporting shipper(s): O'Dell Manufacturing, Inc., P.O. Box 1169, Univeter Rd., Canton, GA 30114. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 143328 (Sub-33TA), filed January 28, 1980. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherlund, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20036. *Liquor* from CA to points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montana Department of Revenue, Liquor Division, Mitchell Bldg., Helena, MT 59601. Send protests to: Paul J. Labane, D/S, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143328 (Sub-34TA), filed January 28, 1980. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave NW, Washington, DC 20036. (1) *Malt beverages* and *related advertising materials, equipment and supplies* from the port of entry at Blaine, WA to points in MN, ND and SD; and (2) *empty containers* and *materials and supplies* used and dealt in by breweries from points in MN, ND, and SD to the port of entry at Blaine, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rocky Mountain Importers, 1405 Sunflower Driver, Missoula, MT 59801. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143478 (Sub-15TA), filed January 18, 1980. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 S. Lawrence St., Montgomery, AL 36104. *Contract; Irregular, Meats, meat products, and meat by-products, and articles distributed by meat packinghouses as described in Section A & C of Appendix I to the report in Descriptions in Motor*

Carrier Certificates, 61 M.C.C. 209 and 766, expect hides and commodities in bulk in tank vehicles, from points in the United States except Madison Co., FL, to the facilities of Winn-Dixie Montgomery, Inc., in Montgomery, AL, restricted to a transportation service performed under a continuing contract(s) with Winn-Dixie Montgomery, Inc., for 180 days. Supporting shipper(s): Winn-Dixie Montgomery, Inc., 1550 Jackson Ferry Rd., Montgomery, AL 36104. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 143478 (Sub-16TA), filed January 16, 1980. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 S. Lawrence St., Montgomery, AL 36104. *Contract, Irregular; Meats, meat products, and meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except hides and commodities in bulk in tank vehicles,* from points in the United States to the facilities of Dixie Packers, Inc., in Madison Co., FL, restricted to a transportation service performed under a continuing contract or contracts with Dixie Packers, Inc., for 180 days. Supporting shipper(s): Dixie Packers, Inc., P.O. Box 622, Madison, FL 32340. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 143988 (Sub-13TA), filed January 30, 1980. Applicant: JAMES W. TATE d.b.a. JAMAR TRUCKING, P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *General commodities (except Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and articles which require special handling because of size or weight),* from the facilities of the Memphis Defense Depot at Memphis, TN to Fort Sam Houston, TX; Randolph AFB, TX; Kelley AFB, TX; Fort Bliss, TX; Red River Army Depot at Texarkana, TX; Corpus Christi Naval Air Station, TX; NAS, Department of Defense facility at Kingsville, TX; Goodfellow AFB; and Naval Air Station at Beeville, TX, for 180 days. Supporting shipper(s): U.S. Army Legal Services Agency, Rm. 422, Nassif Building, Falls Church, VA 22041. Send protests to: Diana J. Porter, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 144069 (Sub-16TA), filed October 31, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge, P.O. Box 5204, Charlotte, NC 28225. *Aluminum articles* between the facilities of Carolina Aluminum Co. at or near Burlington, NC, on the one hand, and, on the other, points in SC, GA, FL, AL, TN, KY, WV, OH, PA, MD, DE, NJ, VA and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carolina Aluminum Co., 1184 State Rd., Burlington, NC 27215. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 144069 (Sub-17TA), filed November 9, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225.

Representative: W. T. Trowbridge, (same as applicant). *Building materials and supplies* (1) between the storage facilities of Pat Brown Lumber Corp. at Columbia, SC, on the one hand, and, on the other, Hoffman, NC (2) between Morganton, NC, on the one hand, and, on the other, Sumter, SC, (3) between Wilmington, NC, on the one hand, and on the other, Charleston, SC and Sumter, SC, (4) between Georgetown, SC, on the one hand, and, on the other points in NC and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pat Brown Lumber Corp., P.O. Box 1103, Lexington, NC 27212. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 144069 (Sub-18TA), filed November 20, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225.

Representative: W. T. Trowbridge, (same as applicant). *Precast and prestressed structural concrete products and materials, supplies and equipment used in the manufacture and erection of structural concrete products except commodities in bulk* between the Carolina Steel Corp. subsidiary facilities of Arnold Stone Company, Colfax, NC and Cast-A-Stone Company, Raleigh, NC, on the one hand, and, on the other, points in SC, GA, FL, AL, TN, KY, WV, OH, PA, MD, VA and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carolina Steel Corp., 1451 South Elm/Eugene St., Greensboro, NC 27046. Send protest to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 144159 (Sub-2TA), filed January 30, 1980. Applicant: BENNINGTON'S PLANT SERVICE, INC., P.O. Box 121, Pascagoula, MS 39567. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Contract carrier;* irregular routes; *machinery, equipment, materials, records and supplies, used in replacing, servicing and repair of machinery and equipment, or in connection with the development, maintenance and construction of barges, drilling rigs, railroad cars, ships and submarines,* between the facilities of Ingalls Shipbuilding Division, Litton Industries, Inc. at Pascagoula, MS, on the one hand, and, on the other, points in the United States, except AK and HI, under a continuing contract or contracts with Ingall Shipbuilding Div., Litton Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ingalls Shipbuilding Div., Litton Industries, Inc., P.O. Box 149, Pascagoula, MS 39567. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 144188 (Sub-15TA), filed December 31, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M Musselman, P.O. Box 1146, Harrisburg, PA 17108. *Such merchandise as is dealt in by retail, wholesale, chain grocery and food business houses, and foodstuff ingredients (except commodities in bulk and frozen foods); and packing materials, display racks, machinery, advertising materials, displays, dispensing equipment, premiums, and office equipment and supplies,* between the facilities of Buckeye Foods, a wholly owned subsidiary of Borden, Inc. at Columbus, OH and points in its commercial zone, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX, restricted to traffic originating at the indicated origins and destined to the indicated destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wise Foods Division of Borden, Borden, Inc., 228 Raseley St., Berwick, PA 18603. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 144398 (Sub-7TA), filed January 3, 1980. Applicant: WAYNE TRANSPORTS, INC., P.O. Box 366, Milaca, MN 56353. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Liquified petroleum gas* from Greenwood and Geneva, NE; Clay Center, Conway & McPherson, KS and Kearney, MO to points in IA, MN, ND and SD for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Land O'Lakes Agricultural Services, 2827 8th Ave., So., Fort Dodge, IA 50501. Send protests to: Transportation Assistant,

ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 144909 (Sub-5TA), filed January 29, 1980. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, 1511 K Street, NW. Washington, D.C. 20005. *Television parts and accessories,* from the facilities of Tee Vee Supply Company, Inc. at or near Nashua, NH, to Georgetown, Groveland, Salisbury, Newburyport, Methuen, Lowell, Chelmsford, Dracut, Tyngsboro, Amesbury, Merrimac, Haverhill, Lawrence, Andover, North Andover, Billerica, Wilmington, and Tewksbury, Massachusetts. Supporting shipper(s): Tee Vee Supply Company, Inc., 3211 Washington Street, Boston, MA 02130. Send protests to: John B. Thomas, D/S I.C.C., 150 Causeway Street, Boston, MA 02114.

MC 144938 (Sub-3TA), filed January 25, 1980. Applicant: BILLY L. NORTH d.b.a. VETERANS TRUCKING, 97 27th Avenue N.W., Gig Harbor, WA 98335. Representative: Billy L. North (same as above). *Contract carrier;* irregular routes; *Wood doors,* from Tacoma, WA to points within NV, AZ and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): West Coast Door, Inc., 3102 So. Pine St., Tacoma, WA 98409. Send protests to: Shirley M. Holmes, T/A ICC, 858 Federal Building, Seattle, WA 98174.

MC 145468 (Sub-30TA), filed January 28, 1980. Applicant: K. S. S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Westergren & Hauptman, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Meat and packinghouse products from Tama, IA to points in AL, CA, FL and GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tama Meat Packing Corp., P.O. Box 209, Tama, IA 52339. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark NJ 07102.

MC 145648 (Sub-8TA), filed January 31, 1980. Applicant: DUDLEY TRUCKING, INC., 1819 Olympic (P.O. Box 1651), Tacoma, WA 98401. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. *(1) Truck bed bodies, grain bins, steel culverts and steel buildings; (2) such materials as are used in the construction of truck bed bodies, grain bins, steel culverts and steel buildings,* (1) from the facilities of SCAFCO Corp., in Spokane County, WA to points in MT, ID, UT, ND, SD, NV, WY, MN and CA, (2) from points in MT, ID, UT, ND, SD, NV, WY and CA to the facilities of SCAFCO Corp. in Spokane County, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): SCAFCO Corporation, E 6212 Main, Spokane, WA 99206. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 145679 (Sub-10TA), filed January 25, 1980. Applicant: A&A TRANSPORT, INC., P.O. Box 569, Palmer, MA 01069. Representative: Arlyn L. Westergren, Westergren & Hauptman, Suite 106, 7101 Mercey Road, Omaha, NE 68106. *Plastics cutlery and utensils,* from the facilities of Engineered Plastics Corp. at Evansville, IN to points in the US in and east of MN, WI, IL, MO, AR and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Engineered Plastics Corp., 2521 Lynch Road, Evansville, IN 47711. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 145679 (Sub-11TA), filed January 28, 1980. Applicant: A&A TRANSPORT, INC., P.O. Box 569, Palmer, Massachusetts 01069. Representative: Arlyn L. Westergren, Westergren & Hauptmen, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* (except commodities in bulk), from the facilities of Armour Fresh Meat Company at Worthington, MN; Huron, SD; Madison, NE; and St. Joseph, MO to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour Fresh Meat Company, 111 West Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 145679 (Sub-12TA), filed February 1, 1980. Applicant: A & A TRANSPORT, INC., P.O. Box 569, Palmer, Massachusetts 01069. Representative: Arlyn L. Westergren, Westergren & Hauptman, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Construction wall panels, fiberglass sheets, fiberglass products, plastic products, solar heating and cooling systems, parts and accessories, and materials, equipment, and supplies used in the installation of construction wall panels,* from the facilities of Kalwall Corp. at Manchester, NH and Kalite Corp. at Bow, NH to points in the US (including AK, except HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kalwall Corp./ Kalite Corp., 1111 Candia Road, Manchester, NH 03103. Send protests to: Regional Motor Carrier Board, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 145679 (Sub-13TA), filed February 1, 1980. Applicant: A & A TRANSPORT, INC., P.O. Box 569, Palmer, Massachusetts 01069. Representative: Arlyn L. Westergren, Westergren & Hauptman, Suite 107, 7101 Mercy Road, Omaha, Nebraska 68106. *Chemicals, cleaning, defoaming and paint removing compounds, solvents, plastic liquid, ink, plastic sheeting, machinery, machinery* parts, paint, lacquer, varnish, and paint thinner (except commodities in bulk in tank vehicles), (1) between the facilities of Thiokol/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; Kearny, NJ; Farmingdale and Long Island City, NY; Woburn and South Hadley Falls, MA; (2) from Moss Point, MS to Charlotte and Matthews, NC; and South Hadley Falls, MA; (3) from Charlotte, NC to South Hadley Falls, MA; (4) from Matthews, NC to Woburn, MA; (5) from Woburn, MA to Herndon, VA and Elmhurst, IL; and (6) from Herndon, VA to Casselberry, FL, restricted to traffic originating at or destined to the facilities of Thiokol/ Dynachem Corporation and further restricted to shipments moving in mechanically refrigerated equipment, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thiokol/Dynachem Corporation, 2631 Michelle Drive, Tustin, CA 92680. Send protests to: Regional Motor Carrier Board, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 146148 (Sub-11TA), filed December 13, 1979. Applicant: B–RIGHT TRUCKING CO., 492 Old State Rt. 7, Pottery Addition, Steubenville, OH 43952. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Iron and steel articles,* between points in AL, IL, IN, KY, MI, MO, NJ, NY, OH, PA, VA, and WV; restricted to traffic originating at or destined to the facilities of Tri-State Metal Products, Inc. for 180 days. Supporting shipper(s): Tri-State Metal Products, Inc., P.O. Box 231, Hudson, OH 44236. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 147348 (Sub-7TA), filed January 31, 1980. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 927

Pyramid Life Building, Little Rock, AR 72201. *General commodities (with the usual exceptions)* from North Little Rock, AR to all points in AR; restricted to shipments moving from pool distribution at Constantin Distribution Corporation of North Little Rock, AR for 180 days. Underlying ETA filed. Supporting shipper(s): 7 shippers. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th St., Ft. Worth, TX 76102.

MC 147589 (Sub-5TA), filed December 31, 1979. Applicant: BAER'S TRANSIT, INC., 754 Airport Road, Menasha, WI 54952. Representative: James A. Spiegel, Old Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract carrier:* irregular routes: *Malt beverages* from Detroit, MI to Wausau, WI and from Belleville, IL to Menasha, WI. Restricted to transportation to be performed under a continuing contract(s) with Baer's Beverage Inc. and Capital Sales, Inc. for 180 days. Supporting shipper(s): Capital Sales, Inc., Baer's Beverage, Inc., 754 Airport Road, Menasha, WI 54952. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 147839 (Sub-10TA), filed October 12, 1979. Applicant: BIB ENTERPRISES, INC., 401 West 9th South, Salt Lake City, UT 84101. Representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier:* Irregular Route: *Lead scrap* from Ontario, CA to East Helena, MT and San Antonio, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Philipp Brothers, 1221 Avenue of the Americas, New York, NY 10020. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 148158 (Sub-6TA), filed January 28, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Knapp, Grossman & Marsh, 707 Wilshire Blvd., 1800 United Calif. Bank Bldg., Los Angeles, CA 90017. *General commodities (except commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment),* from points in KS, LA, MD, MI, AR, NC, VA, CT, TX, RI, AZ, OR, and WA to the facilities of Gibson Product Co. located in UT, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Gibson Product Co., 5955 S. Main St., Murray, UT 84107. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 148428 (Sub-11TA), filed October 29, 1979. Applicant: BEST LINE, INC., P.O. Box 765, Hopkins, MN 55343. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Such commodities as are dealt in by general mail order houses* from St. Cloud, MN to Lexington, KY, Little Rock, AR, Denver, CO, Shreveport, LA, Des Moines, IA and St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fingerhut Corporation, 11 McLeland Rd., St. Cloud, MN 56301. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 148479 (Sub-1TA), filed January 31, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob W. Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract carrier, irregular routes, *A. Paper products; B. Leather and plastic products; C. Cloth and Metal; D. Glue; E. Machinery* BETWEEN Atchison, KS, on the one hand, and all points and places within the US except AK and HI on the other for 180 days. Underlying ETA filed. Supporting shipper(s): Atchison Leather Prod. Co., Inc., 316 Commercial St., Atchison, KS. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102.

MC 148479 (Sub-2TA), filed January 31, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob W. Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract, Irregular routes, *A. Beverage Alcohol in bottles and in case lots; B. Cereal Malt in case lots and kegs* between Kansas City, MO on the one hand, and all points and places within the US except AK and HI on the other for 180 days. Underlying ETA filed. Supporting shipper(s): Jackson Distributing Co., 8641 NE Underground Dr., Kansas City, MO. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102.

MC 148479 (Sub-3TA), filed January 31, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob W. Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract, irregular, *A. Beverage alcohol in bottles and in case lots; B. Cereal malt in case lots and kegs* between Overland Park, KS, on the one hand and all points and places within NY, NJ, MD, FL, LA, TX, KY, TN, IL, IN, MI, OH, PA, CA, MA, MO, and KS on the other for 180 days. Underlying ETA filed. Supporting shipper(s): Eastern Distributing Co., Inc., 7604 Wedd Road, Overland Park, KS 66204. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102.

MC 148479 (Sub-4TA), filed January 31, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract carrier, irregular routes, *A. Beverage alcohol in bottles and in case lots; B. Cereal malt in case lots and kegs* between Springfield and Sedalia, MO on the one hand and all points and places within NY, NJ, MD, FL, LA, TX, KY, TN, IL, IN, MI, OH, PA, CA, MA, MO, and KS on the other for 180 days. Underlying ETA filed. Supporting shipper(s): Whitaker & Co., Inc., 2241 E. Bennett P.O. Box 4342 G.S. Sta., Springfield, MO 65804. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102.

MC 148479 (Sub-5TA), filed January 31, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract carrier, irregular routes, *A. Beverage alcohol in bottles and in case lots; B. Cereal malt in case lots and kegs* between St. Joseph, MO on the one hand and all points and places within NY, NJ, MD, FL, LA, TX, KY, TN, IL, IN, MI, OH, PA, CA, MA, MO, KS, on the other for 180 days. Underlying ETA filed. Supporting shipper(s): E–L Wholesale Liquor Co., 742 S. 6th St., St. Joseph, MO. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102

MC 148479 (Sub-6TA), filed January 31, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract carrier, irregular routes, *A. Beverage alcohol in bottles and in case lots; B. cereal malt in case lots and kegs* between Hays, and Junction City, KS on the one hand, and all points and places within NY, NJ, MD, FL, LA, TX, KY, IL, IN, MI, OH, PA, CA, MA, MO, and KS on the other for 180 days. Underlying ETA filed. Supporting shipper(s): State Distributors, Inc., 7604 Wedd Rd., Overland Park, KS 66204. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102

MC 148479 (Sub-7TA), filed January 31, 1980. Applicant: MIDWEST

SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract carrier, irregular routes, *A. Paper products; B. Chemicals; C. Glass Bottles; D. Bulk and case alcoholic products; E. Ceramic Containers; F. Rum, scotch and tequila; G. Machinery* between Weston, Mo, on the one hand, and all points and places within the U.S. except AK and HI, on the other for 180 days. Underlying ETA filed. Supporting shipper(s): McCormick Distilling Company, Rt. 2, Weston, MO 64098. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102

MC 148479 (Sub-8TA), filed January 31, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Bob Storey, 310 Columbian Title Bldg., 820 Quincy, Topeka, KS 66612. Contract carrier, irregular routes, *A. Beverage alcohol in bottles and in case lots; B. Cereal malt in case lots and kegs* between Joplin, MO on the one hand and all points and places within NY, NJ, MD, FL, LA, TX, KY, TN, IL, IN, MI, OH, PA, CA, MA, MO, and KS on the other for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Southwest Missouri Liquor Co., Inc., 1041 Joplin St., P.O. Box 2065, Joplin, MO 64801. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102

MC 148729 (Sub-1TA), filed November 26, 1979. Applicant: ED HANSEN d.b.a., DOROTHY J. TRANSPORT, Hy 101 W. Box 7070, Port Angeles, WA 98362. Representative: Ed Hansen (same as above). *Contract carrier;* irregular routes; *(1) Lumber, plywood, veneer, peeler cores, shakes, shingles, forest products,* from points in WA west of U.S. Hwy 97 to points in CA, OR, ID, NV, IL, MN; *(2) Block, brick, bag cement, fireplaces, rebar, building materials,* from OR, CA, ID, and NV to points in WA west of I–5 to terminate in Clallam County, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peninsula Plywood, P.O. Box 311, Port Angeles, WA 98362; Olympic Block & Brick, Inc., 302 Tumwater, Port Angeles, WA 98362. Send protests to: Shirley M. Holmes, TA, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 148748 (Sub-2TA), filed December 4, 1979. Applicant: MICHAEL S. ESHNER d.b.a. BURLINGTON COUNTY TRANSIT COMPANY, 1212 Stirling St., Philadelphia PA 19111. Representative: Raymond A. Thistle, Jr., Five Cottman Crt. Homestead Rd. & Cottman St., Jenkintown, PA 19046. Contract carrier-irregular routes: *Passengers and their baggage,* between Towers of Windsor, Cherry Hill Township, NJ on the one hand, and on the other, Philadelphia, PA, under a continuing contract or contracts with Deerwood Estates, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Deerwood Estates, 98 Cutter Mill Rd., Great Neck, NY 11021. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 148799 (Sub-1TA), filed November 28, 1979. Applicant: JESSE L. KOGER, an individual, 1903 Marshall Avenue, Sanford, FL 32771. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Contract carrier, irregular route, transporting plastic plant post and covers* from Tulsa, OK to Lantana, FL under contract with Royal Vista Plastics, Inc. of Tulsa, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Royal Vista Plastics, Inc., P.O. Box 45651, Tulsa, OK 74145. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 148848 (Sub-1TA), filed November 27, 1979, and published in the **Federal Register** issue of January 23, 1980, and republished as corrected this issue. Applicant: UNIVERSAL DELIVERIES, INC., 2100 N. Southport Avenue, Chicago, IL 60614. Representative: Joseph T. Rambrick, P.O. Box 216, Douglassville, PA 19518. *General commodities (except classes A and B explosives, commodities in bulk, those of unusual value, and used household goods as defined by this commission),* between the following counties in IL i.e. Boone, Bureau, Cass, Champaign, Cook, Dewitt, DeKalb, DuPage, Ford, Fulton, Grundy, Henry, Iroquois, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Macon, Marshall, McHenry, McLean, Menard, Ogle, Peoria, Piatt, and Putnam, (b) Rock Island, Sangamon, Stark, Stephenson, Tazwell, Vermilion, Whiteside, Will, Winnebago, Woodford; counties in IN; Lake, Laporte, Marshall, Porter, St. Joseph, Starke; counties in WI; Dane, Green, Jefferson, Kenosah, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, and Waukesha, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 supporting shippers. Their application can be reviewed at the address below or headquarters. Send protests to: ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604. The purpose of this republication is to show the complete scope of application as previously omitted.

MC 149029 (Sub-2TA), filed December 19, 1979. Applicant: VANWORMER TRUCKING, INC., Star Route, Cranberry, PA 16319. Representative: Dwight L. Koerber, Jr., 666 Eleventh St., NW, 805 McLachlen Bank Bldg., Washington, DC 20001. *Petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and materials and supplies used in the manufacture or distribution of petroleum products* (except commodities in bulk), from North Tonawanda and Buffalo, NY; Farmers Valley, Emlenton, and North Warren, PA; and Congo and Saint Marys, WV, to points in OH, PA, NY, WV, MD, and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 149069TA, filed November 6, 1979. Applicant: KEPPEL CORPORATION, 1325 Horner Rd., Woodbridge, VA 27191. Representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. *Automotive tires, tire tread rubber, automotive tubes, tire parts and automotive tire tube parts,* from Findlay and Akron, OH; Clarksdale, MS; and St. Louis, MO; to Lorton, Wytheville, Roanoke, and Richmond, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bogle Tire Co., 1070 E. Main St., Wytheville, VA. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 149079TA, filed November 21, 1979. Applicant: WILLIAM MILLICAN, d.b.a. MILLICAN TRANSFER, 2121 Main St., Victoria, VA 23974. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Such commodities as are dealt in by wholesale, retail and chain food business houses* (except frozen foods and commodities in bulk), in vehicles equipped with mechanical refrigeration, between Victoria and Richmond, VA, and the facilities of Dauphin Distribution Service, Inc., at or near Mechanicsburg, PA, Camp Hill, PA and Hampden and Silver Spring Townships, Cumberland County, PA, on the one hand, and on the other, points in VA and Cherry Point, Fayetteville and Jacksonville, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dauphin Distribution Service Co., P.O. Box 427, Camp Hill, PA 17011. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 149158 (Sub-1TA), filed January 4, 1980. Applicant: DAVID McINTOSH,

INC., P.O. Box 1425, Great Falls, MT 59403. Representative: David W. McIntosh (same address as applicant). Dry fertilizer, in bulk, from Soda Springs, Pocatello, Kellogg and Post Falls, ID and Spokane and Kennewick, WA; and the U.S.-Canada International Boundary line at or near Sweetgrass, MT to all points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Prairie Production Co., Highwood Star Rt., Great Falls, MT 59401, Shoco Fertilizer, Box 333, Augusta, MT 59410, Hi Line Fertilizer, Inc., Box 228, Hingham, MT 59528, McIntosh Grain & Feed, Inc., P.O. Box 1425, Great Falls, MT 59403. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 149189 (Sub-1TA), filed January 16, 1980. Applicant: GEORGE TRUCKING, 11250 Firestone Blvd., Norwalk, CA 90650. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Iron or steel pipe or tubing, and fittings, valves and attachments therefor; and oilfield machinery, equipment, materials and supplies,* between Los Angeles and Long Beach Harbors, CA on the one hand, and, on the other hand points and places in Kern County, CA, limited to port traffic having a prior or subsequent movement via water, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Bakersfield Pipe & Supply Inc., 2809 Patton Way, Bakersfield, CA. Send protests to: Irene Carolos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 149199 (Sub-1TA), filed January 18, 1980. Applicant: O. R. MILLER, d.b.a. FRONTIER EXPRESS, 11720 Ashford Dr., Yukon, OK 73099. Representative: O. R. Miller (same address as applicant). *Common* Carrier: *Regular* Route: *General Commodities,* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Oklahoma City, OK and Newkirk, OK: From Oklahoma City over US Hwy 77 to Newkirk, and return over the same route, serving the intermediate points of Tonkawa, and Ponca City, (2) between Oklahoma City, OK and Braman, OK: From Oklahoma City over US Hwy 77 to the junction of US Hwy 177, then over US Hwy 177 to Braman and return over the same route, serving the intermediate points of Tonkawa, and Blackwell, (3) between Blackwell, OK and the junction of US Hwy 77 and OK Hwy 11: From Blackwell over OK Hwy 11 to the junction of OK Hwy 11 and US Hwy 77, and return over the same route, serving all intermediate points, and (4) between Oklahoma City, OK and the junction of US Hwy 60 and US Hwy 177: From Oklahoma City over Interstate Hwy 35 to the junction of US Hwy 60, then over US Hwy 60 to the junction of US Hwy 177, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, for 180 days. NOTE: Applicant intends to interline with other carriers at Oklahoma City, Blackwell and Ponca City, OK. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 7 supporting shippers. Their statements may be examined at Headquarters or at the field office listed below. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 149209 (Sub-1TA), filed January 22, 1980. Applicant: MIKE MADDEN, d.b.a., MADDEN TRUCK LINE, 2025 Carroll St., Boone, IA 50036. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. (1) *Concrete pipe form equipment and* (2) *equipment, materials, and supplies (except commodities in bulk) used in the manufacture, distribution, or sale of the commodities in (1)* between Boone, IA, on the one hand, and, on the other, points in the U.S. (except AK & HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quinn Foundry & Machine Division of Zeidlers, Inc., P.O. Box 130, Boone, IA 50036. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 149218 (Sub-3TA), filed January 17, 1980. Applicant: SUNBELT EXPRESS, INC., 118 Hamilton Circule, Bremen, GA 30110. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *(1) Containers, container closures, container components and packaging product and (2) Machinery materials and supplies used in the manufacture, sale and distribution of (1) above (except in bulk),* (1) From Tallapoosa, GA to points in AL, FL, GA, IL, IN, KY, LA, MO, MS, NC, OH, SC, TN, VA, and WV; and, (2) From destination states named in (1) above to Tallapoosa, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Can Company, 100 Stoffell Drive, Tallapoosa, GA. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 149219 (Sub-1TA), filed January 24, 1980. Applicant: GERALD TRANSPORT CHAMBLY INC., 3730 Grand-Ligne, Chambly Quebec Canada J3L 4A7. Representative: Adrien R. Paquett, 200 St James Street West, Suite 900, Montreal, Quebec, Canada H2Y 1M1. *General commodities* (except those of unusual valve, Classes A and B explosives, household goods as defined by the Commission, commodites in bulk, and those requiring special equipment) *in ocean containers, and empty containers,* between the ports of entry on the International Boundary Line between the United States and Canada located in NY, VT, NH, and ME, on the one hand, and, on the other, points in VT, NH, MA, CT, ME, NY, NJ, DE, MD, RI, PA, OH, IN and IL. Restricted to traffic having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Entreposage Chambly Ltee, 1155 Boul. Brunelle, Carignan, Quebec, Canada. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 149228 (Sub-1TA), filed January 22, 1980. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *General commodities (except those of unusual value, commodities in bulk, classes A and B explosives, commodities requiring special equipment and household goods as defined by the Commission) restricted to traffic having a prior or subsequent movement by water* between the ports at Newport News, Norfolk and Portsmouth, VA, Morehead City and Wilmington, NC, Charleston, SC and Savannah, GA, on the one hand, and, on the other, points in AL, GA, IN, KY, NC, OH, SC, TN, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 12 supporting shippers. Their statements may be examined at the listed below or Headquarters. Send protest to: Sheila Reece, TA, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 149229 (Sub-2TA), filed January 22, 1980. Applicant: JOYCLIFF TRUCK LEASING COMPANY, INC., 2010 Joycliff Circle, Macon, GA 30201. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract* carrier, over irregular routes, *(1) Articles dealt in by janitorial supply houses, (except in bulk); and (2) Materials and supplies used in the manufacture of janitorial supplies (except in bulk),* (1) From Macon, GA to point in AL, AR, FL, FL, IN, KY, LA, MS, NY, NC, PA, SC, TN, TX, VA and (2) from destination states named (1) above to Macon, GA, for 180 days. An underlying ETA seeks 90 says authority. Supporting shipper(s): Southern Chemical Products Company,

Inc., 430 Lower Boundary Street, Macon, GA 31202. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 149248 (Sub-2TA), filed Jan. 31, 1980. Applicant: MAYNARD & GOAD TRUCKING COMPANY, Route 3—Box 386 Lebanon, 37087. Representative: John G. Hardeman, 618 United American Bank Bldg. Nashville, TN 37219. *Fertilizer spreaders, salt spreaders and materials & supplies used in the manufacture thereof,* between Lebanon, TN, on the one hand, and, on the other points in NH, NC, NY, CT, PA, MA, ME, TX, LA, AR, NJ, DE, OH, WV, VA, KY, SC, GA, FL, MS, OK and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Highway Equipment Company, Lebanon, TN. 37087. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 149288 (Sub-1TA), filed January 18, 1980. Applicant: TRIPLE A DELIVERY SERVICE, INC., 244 W. Main St., Groveport, OH 43125. Representative: Jerry Sellman, 50 W. Broad St., Columbus, OH 43215. (1) *Foodstuffs* from Columbus, OH to points in IN, KY, MI, PA, and WV, and (2) *commodities used in the manufacture, production, or distribution of foodstuffs* from points in IN, KY, PA, WV, and MI, to Columbus, OH, for 180 days, restricted to shipments originating at or destined to facilities of T. Marzetti Co., located in Columbus, OH. An underlying ETA seeks 90 days authority. Supporting shipper(s): T. Marzetti Co., Box 29163, Columbus, OH 43229. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 149298TA, filed December 17, 1979. Applicant: DAIRY TRANSPORT, INC., 1928 Foxcroft Dr., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005.*Contract* carrier-irregular routes; *(a) dairy products, (b) citrus products* (a) between Winston-Salem, NC and points in its commercial zone on the one hand, and, on the other, points in AL, LA, FL, GA, SC, TN, OH, VA, PA, MD, IL, MO, IN, MI and NY, and (b) from points in FL to Winston-Salem, NC and points in its commercial zone and points in VA, for 180 days. Supporting shipper(s): Kraft, Inc. (Dairy Group), P.O. Box 4151, Winston-Salem, NC 27105. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm CC516, Charlotte, NC 28205.

MC 149299TA, filed October 4, 1979. Applicant: ATLANTIC METRO TRANSPORT, INC., 3501 Sinclair Lane, Baltimore, MD 21213. Representative: Robert B. Pepper, Highland Park, NJ 08904. *Contract* carrier-irregular routes: *Concrete planks,* from Baltimore, MD, and Morrisville, PA to pts. in DE, DC, MD, NJ, PA and VA under a continuing contract or contracts with Strescon Industries, Inc., for 180 days. Supporting shipper(s): Strescon Industries, Inc., P.O. Box 67, Morrisville, PA 19067. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 149349TA, filed Dec. 5, 1979. Applicant: Philpot Bus Lines, 213 Crawford St., Campbellsville, KY 42718. Representative: Marvin L. Coan, 601 Legal Arts Bldg., 200 S. 7th St., Louisville, KY. 40202. Passengers and their baggage in the same vehicle (in charter operations), from the Counties of Taylor, Marion, Washington, Larue, Hardin, Green Adair, Casey, Russell and Medcalf, KY, to the states of IN, OH, NC and TN, and return. Supporting shipper(s): There are 10 supporting statements signed by Pastors of various churches & directors for Councils on Aging all located in KY. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY. 40202.

MC 149368TA, filed September 10, 1979. Applicant: ROBERT L. MILLER, d.b.a. MILLER'S SPECIAL DELIVERY SERVICE, 61390 Bremen Highway, Mishawaka, IN 46544. Representative: Robert L. Miller, 61390 Bremen Highway, Mishawaka, IN 46544. *General commodities,* except Classes A & B explosives, commodities in bulk, articles of high or unusual value and household goods as defined by the Commission. Handling "Emergency Shipments-Expedited Service Requested", between all points in IL, IN, IA, KY, MI, OH and St. Louis, MO and Brook, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tyler, Wayne, Wetzel and Wood Counties in WV for 180 days. Supporting shipper(s): 13 Supporting Shippers. Send protests to: Interstate Commerce Commission, 219 S. Dearborn St., Chicago, IL 60604.

MC 148418 (Sub-1TA), filed December 31, 1979. Applicant: BATESVILLE CASKET CO., INC., Batesville, IN 47006. Representative: Edward F. Schiff, 1333 New Hampshire Avenue NW., Washington, DC 20036. *Contract carrier:* irregular routes: *Metal fireplaces and related equipment* from Los Angeles, CA to Louisville, KY for 180 days. (Corresponding ETA seeks 90 days authority.) Supporting shipper(s): Marco Manufacturing, Inc., Midland Industrial Park, 8191 National Turnpike, Louisville, KY 40214. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

Notice No. 16

March 11, 1980.

MC 148768 (Sub-1TA), filed November 19, 1979, and published in the **Federal Register** issue of March 3, 1980, and republished as corrected this issue. Applicant: JAMES S. SHAPKOFF, d.b.a VERNON MOVING & STORAGE COMPANY, P.O. Box 557, Leesville, LA 71446. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. *Used household goods,* between points in Vernon, Beauregard, Allen, Natchitoches, Sabine, Jefferson, Cameron, and Calcasieu Parishes, LA, and Orange, Sabine, Angelina, Jasper, Newton, Nacogdoches, San Augustine and Shelby Counties, TX, for 180 days. Restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. Applicant has filed an underlying ETA seeking 90 days authority. Supporting shipper(s): Four Winds Forwarding Company, P.O. Box 80771, San Diego, CA 92138. Cartwright International Van Lines, Inc., 11901 Cartwright Avenue, Grandview, MO 64030. Astron Forwarding Company, 1660 Factor Avenue, San Leandro, CA 94577. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113. The purpose of this republication is to correct scope of application as previously published.

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MC 19306 (Sub-1TA), filed December 26, 1979. Applicant: R. J. TAYLOR AND G. G. TAYLOR CO., 180 Jefferson Boulevard, Warwick, RI 02886. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036. Contract-irregular, 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, between Cranston, RI, on the one hand, and, on the other, points in NH. RESTRICTION: This service to be performed by the above-named carrier is limited to a service in which said carrier leases trucks with drivers to the shippers for the transportation of such shipper's property. For 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): Jewelers Shipping Association, 125 Carlsbad Street, Cranston, RI 02910. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 26396 (Sub-328TA), filed January 3, 1980. 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. (A) *Fertilizer* and *fertilizer additives,* and (B) *Materials, supplies and equipment* used in the manufacture and distribution of the commodities listed in (A) above, between the facilities of Stoller Chemical Company, Inc. at or near Turlock, CA; Jerome, ID; Buckeye, AZ; Brownfield, Houston and Odessa, TX; Fremont, NE; Oswego, IL; Dawson and Pelham, GA; Eustis, FL; Ehrhardt and Jerico, SD; Severn, NC; Clarendon, AR; and Tooele, UT, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stoller Chemical Company, Inc., 8582 Katy Freeway, Suite 200, Houston, TX 77024. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 51146 (Sub-797-TA), filed December 5, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Packaging mixes, cake mixes, corn bread mixes, potato mixes, and drink mixes and equipment, materials, and supplies used in the manufacture and distribution of the above-named commodities,* from Chester and Steelville, IL and Perryville, MO to Arlington, TX; Chattanooga, TN; Clearfield, UT; Kansas City, MO; and points in MN, IA, WI, IL, KY, IN, MI, OH, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, and ME for 180 days. Supporting shipper(s): Gilster Mary Lee, P.O. Box 227, Chester, IL 62233. Send protests to: Transportation Assistant, ICC—219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 51146 (Sub-798TA), filed December 12, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). *Beverage preparations and ice cream toppings,* from Chicago, IL and Fostoria, OH to Liverpool, NY; Boston, MA; St. Louis, MO; Fostoria, OH; Dallas, TX; Chicago, IL; and Kansas City, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foremost-McKesson, Inc., One Post Street, San Francisco, CA 94104. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 51146 (Sub-799TA), filed December 12, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. Dujardin (same address as applicant). *Such commodities as are dealt in, or used by, manufacturers and distributors of plumbing fixtures and supplies,* between Louisville, KY and Eau Claire, La Crosse, and Madison, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): La Crosse Plumbing & Supply Co., 106 Cameron Avenue, La Crosse, WI 54601. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 51146 (Sub-800TA), filed December 18, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, P.O. Box 2298, Green Bay, WI 54306. *Sodium bicarbonate, in packages, and phosphates, in packages, when moving in mixed loads with sodium bicarbonate, in packages,* from the facilities of Stauffer Chemical Company at Chicago Heights, IL to points in CT, DE, IN, IA, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WV, WI and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stauffer Chemical Company, Westport, CT 06880. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 51146 (Sub-801TA), filed December 19, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, (same address as applicant). *Beer, in kegs and cartons,* between Detroit, MI on the one hand, and, on the other, Cleveland, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lewis Distributing Company, Inc., 855 Hickory Street, P.O. Box 98, Cleveland, WI 53015. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 51146 (Sub-802TA), filed January 4, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, (same address as applicant). (1) *Containers, container ends, and container closures,* (2) *Commodities manufactured or distributed by manufactures and distributors of containers when moving in mixed loads with containers, and* (3) *Material, equipment and supplies used in the manufacture and distribution of containers, container ends, and container closures,* between points in the United States (except AK and HI). Restriction: All of the above authority is restricted against the transportation of commodities in bulk for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 21 supporting shippers. Their application can be reviewed at the address below or headquarters. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 52657 (Sub-753TA), filed November 15, 1979. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Court, Burr Ridge, IL 60521. Representative: James Bouril (same as applicant). *Reconsigned motor vehicles in secondary movements, in truckaway service:* (1) between points in the states of CT, MD, NY, NJ and PA; (2) between points in the states of OH and WV, on the one hand, and, on the other CT, MD, NJ and PA; (3) between points in the states of IL, KS, NB, and OK; and (4) between points in the states of IA and MO, on the one hand, and, on the other KS, NB and OK. Restricted to the transportation of traffic having a prior movement from the facilities of American Motors Corp., Kenosha, WI; Jeep Corp., a subsidiary of American Motors Corp., in Toledo, OH; American Motors (Canada) Ltd., Brampton, Ontario, Canada and Regie Nationale-Des-Usines Renault, France for 180 days. Supporting shipper(s): American Motors Corporation, 14250 Plymouth Rd., Detroit, MI 48232. Send protests to: Transporation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 52657 (Sub-754TA), filed November 16, 1979. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Court, Burr Ridge, IL 60521. Representative: James Bouril, 16 W. 151 Shore Court, Burr Ridge, IL 60521. *Motor vehicles,* in truckway service, in secondary movements, from Little Ferry, NJ and points within 20 miles thereof, to points in CT, NJ, NY and RI; from Pittsburgh, PA and points within 20 miles thereof, to points in MD, OH, PA and WV; restricted to the transportation of vehicles having a prior movement from the facilities of Regie Nationale-Des-Usines Renault, France. Supporting shipper(s): American Motors Corporation, 14250 Plymouth Rd., Detroit, MI 48232. Send protests to: Transporation Assistant, ICC, 219 S.

Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 52657 (Sub-755), filed November 15, 1979. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Court, Burr Ridge, IL 60521. Representative: James Bouril, 16 W. 151 Shore Court, Burr Ridge, IL 60521. *Motor vehicles,* in secondary movements, in truckaway service from Kansas City, KS-MO commerical zone to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Motors Corporation, 14250 Plymouth Road, Detroit, MI 48232. Send protests to: Transporation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 55896 (Sub-131TA), filed December 17, 1979. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). *Materials, equipment and supplies used in the manufacture of automobiles (except commodities in bulk, in tank vehicles),* from Vienna, WV to Janesville, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Logistics Operations, G–M Corporation, 30007 Van Dyke Ave., Warren, MI 48090. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 58166 (Sub-17TA), filed December 13, 1979. Applicant: GIBSON TRUCK LINES, LaJara, Colorado 81140. Representative: Fred T. Gibson (same address). (A) *Animal Feeds—Cottonseed Meal in bulk and bags, and insulating materials and supplies,* from points in AZ to points in CO, NM and TX; (B) *Gypsum in bulk and Crushed Rock* from points in NM to CO, for 180 days. Supporting shipper(s): Daniel's Field Service, Monte Vista, CO, Malouff's Hi-Valley Paving, Alamosa, CO, Larry Juhin, LaJara, CO. Send protests to: District Supervisor H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 59306 (Sub-6TA), filed December 13, 1979. Applicant: NIEDERGERKE TRUCK LINE, INC., 107 West 4th St., Fulton, MO 65251. Representative: Neal A. Jackson, 1156 15th St. NW., Suite 1022, Washington, D.C. 20005. *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 Dresser Industries, Inc., at Vandalia, MO, as an off-route point in connection with applicant's existing regular route authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Transport Services Div. of Dresser Ind., P.O. Box 2252, Columbus, OH 43216, Harbison-Walker Refractories, 2 Gateway Center, Pittsburgh, PA 15222. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 59726 (Sub-4TA), filed November 21, 1979. Applicant: MERLIN ZILLMER, d.b.a., ZILLMER TRANSFER, Rural Route 4, Sparta, WI 54656. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission and commodities requiring special equipment),* (1) between Black River Falls, WI and junction of WI Hwy 108 and U.S. Hwy 16; from Black River Falls, WI over U.S. Hwy 54 to Melrose, WI, then over WI Hwy 108 to junction with U.S. Hwy 16, serving all intermediate points (also over U.S. Hwy 54 to Melrose, WI, then over WI Hwy 108 to north junction with unnumbered Hwy (LaCrosse County CTH C) then over unnumbered Hwy to south junction with WI Hwy 108, serving Mindoro, WI as off-route point) and return over same route, (2) between North Bend, WI and Melrose, WI; over WI Hwy 54, and return over the same route and (3) between North Bend, WI and junction of unnumbered Hwy and WI Hwy 108, north of Mindoro, WI, over unnumbered Hwys (Jackson County CTH V and VV, and LaCrosse County CTH VV and T), and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 supporting shippers. Their application can be reviewed at the address below or headquarters. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 78276 (Sub-16TA), filed December 31, 1979. Applicant: MAZZEO & SONS EXPRESS, 311 South River Street, P.O. Box 691, Hackensack, NJ 07601. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Wearing apparel,* between Greer, SC and Jackson, TN on the one hand, and on the other, points in the states of AL, AR, FL, GA, KY, MS, NC, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gail Fashions, 104 Mouisey Blvd., City unknown; K&R Sportswear Co., PO Box 219, Spring Hope, NC 27882; Shelia EM and Silverstyle Dress Corp., 501 7th Avenue, New York, NY 10018; The Works, Fun and Fads Inc., Sherayne Dress Co., 1359 Broadway, New York, NY 10018; Jana Lee, Inc., 330 W. 34th St., New York, NY 10001; En Route Inc., & Ellen Harts, Roanoke Enf. App., 1020 Foye St., RR NC 27870; Cotton City Industries, Inc., 45 West 36th St., New York, NY. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 86247 (Sub-25TA), filed November 29, 1979. Applicant: I.C.L. INTERNATIONAL CARRIERS LIMITED, 1333 College Ave., Windsor Ontario Canada N9C 3Y9. Representative: Joseph P. Allen, 7701 W. Jefferson, P.O. Box 09259, Detroit, MI 48209. *Silica sand, magnesite and refractory sand, in dump vehicles,* between Ottawa, IL and its commercial zones, and the international boundary line of the U.S. and Canada at Detroit and Port Huron, MI, restricted foreign traffic, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors of Canada, Ltd., Park Rd. So., Oshawa, Ontario, Canada; General Abrasives Canada, 3807 Stanley Ave., Niagara Falls, Ontario; Top Iron & Metal Co., Ltd., Sheppard Ave., Sheppard Center, Willowdale, Ontario M2N 5Y7. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 95876 (Sub-333TA), filed December 31, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC, 203 Cooper Avenue North. St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). *Materials and supplies used in the manufacture and distribution of cast iron products (except commodities in bulk),* from points in and west of ND, SD, NE, KS, CO and NM, to Pottawattamie County, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 95876 (Sub-334TA), filed January 8, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). *Pedestrian and recreational bridges,* from Alexandria, MN to Santa Rosa, CA, Bloomfield, CT, Savannah, GA, Idaho City, ID, Elk Grove, Harvard, Ringwood and Chicago, IL, Louisville and Lexington, KY, Algiers and Shreveport, LA, Frederick, MD, Fraser, MI, Springfield, MO, Orangetown, Albany and Lake Placid, NY, Albuquerque, NM, Oklahoma City, OK, Knoxville, TN, San Antonio, TX, Falls Church, VA, Madison, WI and

Sheridan and Encampment, WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Custom Bridge Co., Route 5, Alexandria, MN 56308. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 99427, filed September 28, 1979. Applicant: ARIZONA TANK LINES, INC., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same address as applicant). *naptha, in bulk, in tank vehicles,* from El Segundo, LA, to the facilities of Inspiration Consolidated Copper Co., at or near Miami, AZ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inspiration Consolidated Copper Company, Inspiration, AZ 85537. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 100666 (Sub-515TA), filed December 12, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Materials and supplies used in the manufacture or disbribution of gypsum or gypsum products (except commodities in bulk)* from KS and MO to Acme, TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Georgia-Pacific Corp., 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-515TA), filed December 18, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Insulating materials and supplies* from the facilities of Certain-Teed Corporation at or near Pauline and Kansas City, KS to points in IA, IL, IN, KY, MI, MO, OH, and WI, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Certainteed Corp., Insulation Group, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-516TA), filed December 31, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Such commodities as are dealt in or used by, agricultural equipment, industrial equipment and lawn and leisure product dealers (except in bulk)* from Laurinburg, NC to points in FL, GA, NC, SC, TN, and VA. Restricted to shipments having a prior movement by rail and destined to facilities of Deere & Company dealers. Applicant is seeking 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Deere & Company, John Deer Road, Moline, IL 61265. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-517TA), filed December 31, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). Materials used in the manufacture of wiping cloths, in bales, from Wichita, KS and Muskogee, OK to Bossier City, LA, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: Target Wiping Cloth Co., P.O. Box 5958, Bossier City, LA 71111. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-518TA), filed January 10, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Lumber and wood mining props* from Butte, Custer, Laurence, Meade and Pennington Counties, SD to AZ, CO, and NM, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: Southwestern Sales, Inc., P.O. Box 25783, Albuquerque, NM 87125. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-518TA), filed January 10, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Lumber and wood mining props* from Butte, Custer, Laurence, Meade and Pennington Counties, SD to AZ, CO, and NM, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: Southwestern Sales, Inc., P.O. Box 25783, Albuquerque, NM 87125. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-519TA), filed January 10, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Such commodities as are dealt in or used by Agricultural equipment, Industrial equipment, and Lawn and Leisure product dealers (except commodities in bulk),* between the facilities of Deere and Company in Jackson County, MO on the one hand, and on the other, points in CO and NE, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: John Deere Company, 3210 East 85th St., Kansas City, MO 64132. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 105607 (Sub-15TA), filed December 31, 1979. Applicant: CON. WEIMAR CORP., 401 Commerce Road, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Fatty alcohol, in tank vehicles,* from Newark and Lyndhurst, NJ to Painesville, Oh for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Fallek Chemical Corporation, 460 Park Avenue, New York, NY 10022. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 107496 (Sub-1262TA), filed November 13, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Alcohol, in bulk, in tank vehicles,* from Decatur, IL, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Molo Oil Company, 41 Main, Dubuque, IA 52001; Wolter Oil Co., P.O. Box 398, Denver, IA 50622. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1263TA), filed November 14, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Synthetic resins, in bulk, in tank vehicles,* from Valley Park, MO, to points in NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Spencer Kellogg, a Division of Textron, Third & St. Louis Sts., Valley Park, MO 63088. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1264TA), filed November 21, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Chelating compound, in bulk, in tank vehicles,* from Garland, TX, to points in WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Magnablend, Inc., P.O. Box 62, DeSoto, TX 75115. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107527 (Sub-63TA), filed January 2, 1980. Applicant: POST TRANSPORTATION CO., P.O. Box

1000, Long Beach, CA 90801. Representative: R. Sherman Kirksey, P.O. Box 1000, Long Beach, CA 90801. *Contract:* Irregular: *Liquid Caustic Soda and Hydrochloric Acid, in Bulk, in Tank Vehicles,* from Los Angeles County, California, to Points & Places in Arizona, for 180 days. Supporting shipper: Hooker Chemicals & Plastics Corp., 605 Alexander Ave., Tacoma, WA 98401. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 107576 (Sub-27TA), filed October 12, 1979. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 S. E. Water Avenue, Portland, OR 97214. Representative: Ben D. Browning or Ronald D. Browning, 1321 S. E. Water Avenue, Portland, OR 97214. Common, regular by motor vehicle, general commodities (except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities in bulk in tank vehicles, and those requiring special equipment) (1) between Umatilla, OR and Soap Lake, WA via the Umatilla Bridge and connecting roads to Junction WA State Hwy 14 near Plymouth; then via WA State Hwy 14 to Junction USH 12; then via US Hwy 12 to junction US Hwy 395; then US Hwy 395 to Junction WA State Hwy 17; then via WA State Hwy 17 to Soap Lake, serving all intermediate and off-route points located in Benton, Franklin, Adams, and Grant Counties, Washington, and the off-route point of Vantage, WA and return over the same routes, and (2) Between Goldendale, WA and Moses Lake, WA via US Hwy 97 to Junction Interstate Hwy 90; then via Interstate Hwy 90 to Junction WA State Hwy 171; then via WA Hwy 171 to Moses Lake, serving the intermediate point to Vantage, WA and the off-route points located in Grant County, WA and return over the same routes. Also requested is authority to tack, interline, and serve the commercial zones of the above-named points, for 180 days. Supporting shipper(s): Carborundum Irrigation Systems, 90554 Hwy 99N, Eugene, OR. Shinn Irrigation Equipment, Inc., 710 East Broadway, Moses Lake, WA, and 40 others on file in Field Office, Portland, OR. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 111496 (Sub-31TA), filed January 8, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Saint Paul, MN 55113. Representative: R. E. Caturia (Same address as applicant). *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,* between Shelby, MT and the United States-Canada boundary line at or near Sweetgrass, MT, serving all intermediate points. From Shelby over U.S. Highway 2 to Junction U.S. Highway 91, thence over U.S. Highway 91 to the United States-Canada boundary line, and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interstate Motor Freight System, 2750 Lexington Avenue, St. Paul, MN 55121; McLean Trucking Company, 400 First Street SW, New Brighton, MN 55112. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 112617 (Sub-460TA), filed December 17, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Larry W. Thompson (as above). Liquid Petroleum Pitch, in bulk, in tank vehicles, from Mobil Oil Company, Augusta, KS, to Airco Speer Carbon Graphite, Niagara Falls, NY. Supporting shipper: Gilbert F. Williams, T/M, Airco Speer Carbon Graphic, 4861 Packard Road, Niagara Falls, NY 14302. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 112617 (Sub-461–TA), filed December 28, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Larry W. Thompson (same as above). Granulated Slag, in bulk, from the plantsite of Mineral Aggregates Co., Inc., at or near Greenville, KY, to points in AR, IN, KS, MO, OK, TN, WV, AL, GA, LA, MS, NC, SC, OH, TX, VA, and IL. Supporting shipper(s): David M. Steffen, T/M, Mineral Aggregates Co., Inc., 8149 Kennedy Ave., Highland, IN 46322. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 115357 (Sub-14–TA), filed December 21, 1979. Applicant: TAT, INC., 800 Wyoming St., P.O. Box 4013, Kansas City, MO 64101. Representative: Raymond A. Greene, Jr., 100 Pine St. Suite 2550, San Francisco, CA 94LLL. *Automobiles and trucks* weighing not in excess of 15,000 lbs. in secondary movements in truckaway service between points in Kansas City, MO, including points within the Kansas City, MO commercial zone and points in MO and points within the St. Louis, MO commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mazda Motors, 3040 E. Ana, Compton, CA 90221; Volvo of America Corp., 1955 190th St., Torrance, CA 90509. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 115716 (Sub-32–TA), filed January 10, 1980. Applicant: DENVER-LIMON-BURLINGTON TRANSFER COMPANY, 3650 Chestnut Place, Denver, CO 80216. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. *General Commodities, except Classes A & B Explosives, Commodities in bulk, in tank vehicles, commodities requiring special equipment and household goods as defined by the Commission,* between Denver, CO on the one hand, and on the other, Pueblo, CO via Interstate Hwy. 25 serving all intermediate points, for 180 days. There is an underlying ETA seeking up to 90 days authority. Supporting shipper(s): Colorado Warehouse Delivery Service, Denver, CO, Empire Warehouse, Inc., Commerce City, CO, Conveyor Specialists, Inc., Denver, CO; 14 shippers, Nobel, Inc., Denver, CO, Imperial Dist. Services, Inc., Denver, CO, Bosco Fastening Service Center, Denver, CO, +8 other supporting shippers. Send protests to: District Supervisor R. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 117786 (Sub-88–TA), filed December 21, 1979. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. *Merchandise, equipment and supplies sold, used and distributed by a manufacturer of cosmetics,* from the facilities of Avon Products, Inc. in Morton Grove, IL and Glenview, IL to Billings, MT, Cheyenne, WY and Casper, WY, for 180 days. Supporting shipper(s): Avon Products, Inc., 6901 Golf Road, Morton Grove, IL 60053. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Avenue, Phoenix, AZ 85025.

MC 118806 (Sub-72–TA), filed December 21, 1979. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J 3K4. Representative: Bernard J. Kompare, Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. *Pesticides,* from Peoria, IL to the ports of entry on the International Boundary Line between the United States and Canada at or near Pembina, ND and Noyes, MN. Restriction: Restricted to the transportation of traffic moving in foreign commerce for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobay Chemical Corporation, Agricultural Chemicals

Division, P.O. Box 4913, Kansas City, MO 64120. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 119226 (Sub-124–TA), filed December 17, 1979. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Representative: Robert W. Loser II, 1101 Chamber of Commerce Building, Indianapolis, IN 46204. *Liquid weed killing compounds, in bulk, in tank vehicles,* from Lafayette, IN to points in AL and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly & Co., 1555 S. Kentucky Ave., Indianapolis, IN 46206. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 124887 (Sub-106–TA), filed January 2, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FA 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *(1) Prefabricated buildings, knocked down, and (2) parts, attachments, tools and accessories used in the erection or installation of prefabricated buildings,* from Portland, TN to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeastern Industrial Developers, 7325 NW 13th Boulevard, Gainesville, FL 32601. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 133566 (Sub-153–TA), filed December 6, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative Thomas J. Beener, One State Street Plaza, New York, NY 10004. *Chemicals, acids, solvents, coatings, paints, compounds, solutions, powders and salt, and materials, supplies, and equipment used in the manufacture, distribution and sale of such commodities (except in bulk, in tank vehicles),* between the facilities of Shipley Co., Inc., located at Newton, Westwood, Salem and Marlboro, MA, Chicago, IL, the U.S.-Canadian boundary (Toronto, Ontario, Canada), Richmond, VA, Fort Lauderdale, FL, Bloomington, MN, Dallas, TX, Irvine and Berkeley, CA, and Portland, OR for 180 days. Supporting shipper(s): Shipley Co., Inc., 2300 Washington St., Newton, MA 02162. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 139206 (Sub-69TA), filed January 8, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: R. C. Mitchell (address same as applicant). *Paper and paper articles:* From Taylorville, IL, to Visalia, CA; Noonan, GA; Ft. Wayne, IN; Lawrence, KS; Plymouth, MI; Sparks, NV and Fairless Hills, PA, for 180 days. "Underlying ETA filed." Supporting shipper(s): Sangamon Company, Supervisor of Shipping, Rt 48 West, Taylorville, IL 62568. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Fort Worth, TX 76102.

MC 140986 (Sub-13TA), filed January 9, 1980. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract, irregular. Insulating materials and materials, equipment and supplies used in the manufacturing, installation and sales thereof. Between Netcong, NJ on the one hand and on the other, points in the US, except AK and HI, for 180 days. Supporting shipper(s): Compac Corporation, Old Flanders Road, Netcong, NJ 07857. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

MC 142466 (Sub-2TA), filed January 8, 1980. Applicant: TIMBER PRODUCTS TRANSPORT, INC., P.O. Box 1513, Longview, WA. Representative: William H. Grady, 1100 Norton Bldg., Seattle, WA 98104. *Western hardwood, gypsum products, roofing materials and roofing insulation* from Los Angeles, and Orange Counties, CA to Marion County, OR and from points in WA on and west of U.S. Highway 97 and from Eugene and Roseburg, OR to Fresno, Union City, San Francisco, and Sacramento, CA and Reno, NV for 180 days. Supporting shipper(s): Higgins Lumber, P.O. Box 15466, Sacramento, CA 95813. Send protests to: D. Merine Galbraith, T/A, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 142516 (Sub-25TA), filed December 13, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract carrier, irregular routes for 180 days. Titanium dioxide and industrial chemicals and materials, equipment and supplies used in the manufacture and sale of titanium dioxide and industrial chemicals (except commodities in bulk) between points in NJ and New York, NY commercial zone on the one hand, and, on the other, points in the US (except AK and HI). Under a continuing contract or contracts with NL Chemicals, Division of NL Industries, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): NL Chemicals, Division of NL Industries, P.O. Box 700, Hightstown, NJ 08520. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 142686 (Sub-31TA), filed January 3, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as above). *Contract;* Irregular; *Commodity specialty steel products,* from Reading, PA to points in the states of IL, IN, and OH, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Carpenter Technology, Taffic Manager, P.O. Box 662, Reading, PA 19603. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142686 (Sub-32TA), filed January 3, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 So. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as above). *Contract;* Irregular; *Commodity plastic articles, including plastic trays used for packing meat for sale in supermarkets,* from the facilities of W. R. Grace Co. at Reading, PA and Indianapolis, IN, to points within the states of IL, OH, MI, CT, NJ, NY, DE, PA, IN, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): W. R. Grace, Traffic Manager, P.O. Box 295, Reading, PA 19603. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143436 (Sub-37TA), filed December 18, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 8328 Hill Gail Drive, P.O. Box 41228, Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *Confectionery items in vehicles equipped with mechanical refrigeration,* from Chicago, IL and its Commercial Zone (as defined by the Commission) to points in IN, KY, MI, and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Straus-Keilson Co., 9345 Princeton-Glendale Rd., Cincinnati, OH 45246; Ferrara Candy, 7301 W. Harrison, Forest Park, IL. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 143556 (Sub-2TA), filed December 28, 1979. Applicant: DAHLSTROM'S INC., 401 Hill Road, Aberdeen, WA 98520. Representative: George Kargianis, 2120 Pacific Building, Seattle, WA 98104.

Sawdust and wood chips, from Dayton (Mason County), WA on the one hand to Wauna (Clatsop County), OR on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crown-Zellerbach, 1500 S.W. 1st Avenue, Portland, OR 97201; Simpson Timber Company, Shelton, WA 98584. Send protests to: Hugh H. Chaffee, D/S, ICC, 858 Federal Building, Seattle, WA 98174.

MC 143846 (Sub-12TA), filed January 9, 1980. Applicant: MISSION TRANSPORT, INC., 50 Van Kueren Avenue, Jersey City, NJ 07306. Representative: Arthur J. Piken, Esq., Piken & Piken, Esqs., 95–25 Queens Boulevard, Rego Park, NY 11374. Contract carrier, irregular routes for 180 days. Printing paper in rolls and on pallets from Chillicothe, OH and Madawaska, ME to points in AL, CT, DE, FL, IL, IN, ME, MD, MA, MI, MS, NJ, NY, NH, NC, PA, RI, SC, TN, TX, VA, WV and DC, including movements to Canada. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beekman Paper Company, Inc., 137 Varick Street, New York, NY 10013. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144547 (Sub-5TA), filed December 27, 1979. Applicant: DURA-VENT TRANSPORT CORP., 2525 El Camono real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th St., N.W., Washington, D.C. 20006. *Contract Irregular. Truck Parts and Accessories;* From points in U.S., except AK and HI to Fremont, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal Filter Supply, Inc., Fremont, CA 94538. Send protests to: D/S Neil C. Foster, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 144616 (Sub-7TA), filed January 8, 1980. Applicant: TRUCKS, INC., P.O. Box 79113, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Meat, Meat products, meat by-products, and articles distributed by meat packing houses and described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides and commodities in bulk),* From the facilities utilized by John Morrel & Co. at or near Shreveport, LA to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MA, MI, MS, MO, NH, NY, MC, OH, PA, RI, SC, TN, VA, WV and DC, restricted to the transportation of traffic originating at the facilities of John Morrell & Co., for 180 days. "Underlying ETA filed." Supporting shipper(s): John Morrell & Co., Manager of Transportation, 208 South LaSalle St., Chicago, IL 60604. Send Protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600, Ft. Worth, TX 76102.

MC 144926 (Sub-8TA), filed December 12, 1979. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, 222 40th Street SW, Fargo, ND 58107. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. *Contract carrier:* irregular routes: *Tanks and parts, attachments and accessories for tanks,* (1) from the facilities of O'Day Equipment, Inc., at Fargo, ND and Sioux Falls, SD to points in ND, SD, MN, IA, WY, MT, NE, ID, WA, and OR, and (2) from Minneapolis, MN to the facilities of O'Day Equipment, Inc., at Fargo, ND and Sioux Falls, SD. The above authority is restricted to a service to be performed under a continuing contract(s) with O'Day Equipment, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): O'Day Equipment, Inc., 2500 Main Avenue, Fargo, ND 58102. Send Protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145997 (Sub-21TA), filed December 21, 1979. Applicant: JEM EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Contract carrier over irregular routes: *Foodstuffs and material, equipment and supplies* used in the manufacture, distribution and sales thereof, between Niles, IL and Lakeville, MN, on the one hand, and on the other, points in CA and MD, restricted to the movement of traffic moving to, from or between the manufacturing facilities, plants, warehouses, distribution centers, processing and/or manufacturing contractors and shipping and receiving facilities of or used by McCormick and Company, Inc., its divisions and subsidiary corporations, under a contract or contracts with McCormick and Company, Inc., for 180 days. Supporting shipper(s): McCormick and Company, Inc., 11100 McCormick Road, Hunt Valley, MD 21031. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 146196 (Sub-1TA), filed December 31, 1979. Applicant: RICH DOSS, INC., 3809 Stony Point Road, Santa Rosa, CA 95401. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Lumber and lumber and wood products (except shakes and shingles)* from points in OR to points in CA and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inland Lumber Co., POB 2746, Dublin, CA 94566; Kelleher Moulding Co., POB 3433, San Rafael, CA 94901; Rolando Lumber Co., POB 34042, San Francisco, CA 94134; Calif. Cascade Industries, POB 130026, Sacramento, CA 95813. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 146206 (Sub-2TA), filed December 31, 1979. Applicant: RBR CORPORATION, d.b.a. CASINO LIMOUSINE, 2490 Terminal Way, Reno, NV 89502. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Passengers in special and charter operations,* restricted to equipment of 25 passenger capacity or less between Reno, Sparks, Zephyr Cove, Stateline and Incline, NV, and the facilities of Cal-Neva Club and Crystal Bay Club located in Washoe County, NV on the one hand, and points in El Dorado and Placer Counties, CA located within 20 miles of Lake Tahoe, on the other hand, for 180 days. Supporting shipper(s): There are 9 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: DS W. J. Huetig, I.C.C., 705 North Plaza Street, Carson City, NV 89701.

MC 146256 (Sub-7TA), filed January 2, 1980. Applicant: SHORT LINE TRUCKING CO., INC., P.O. Box 20026, Louisville, KY. 40220. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, P.O. Box 81849, Lincoln, NE 68501. Snack Foods, except those commodities requiring refrigeration and commodities in bulk, from the facilities of Snack Foods, Inc., at or near Jeffersonville, IN, to Chicago, IL, and points in its commercial zone. Supporting shipper(s): Wm. P. Muhlheizlar, Snack Foods, Inc., P.O. Box 399, Jeffersonville, IN 47130. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 146256 (Sub–8TA), filed January 2, 1980. Applicant: SHORT LINE TRUCKING CO., INC., P.O. Box 20026, Louisville, KY 40220. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, P.O. Box 81849, Lincoln, NE 68501. (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 manufcture, sale or distribution of the commodities in (1) above (except in bulk), between the facilities of A. E. Staley Manufacturing Co., at or near Broadview and Cicero, IL, on the one hand, and, on the other, points in the states of GA, IN, KY, MI, OH, and TN. Supporting shipper(s): J. I. Maley, A. E. Staley Mfg. Co., Consumer

Products Div., 2222 Kensington Ct., Oakbrook, IL 60521. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY. 40220.

MC 146646 (Sub-80TA), filed January 4, 1980. Applicant: BRISTOW TRUCKING, CO., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (address same as the address of the applicant). *Non-ferrous scrap metals,* between points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Supporting shipper(s): Aaron Ferer & Son's Co., 909 Abbott Dr., Omaha, NE 68102. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 146646 (Sub-81TA), filed January, 1980. Applicant: BRISTOW TRUCKING CO., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (address same as the address of the applicant). *Furniture parts, components, and accessories thereto,* (1) between the facilities of Leggett & Platt, Inc., its divisions and subsidiaries, customers and suppliers, located in and west of MT, WY, CO and NM, and (2) from points in NC, MO, OH, KY and TX, to points in MT, WY, CO, NM, AZ, UT, ID, WA, OR, NV, and CA, for 180 days. Supporting shipper(s): Leggett & Platt, Inc., 18th Rd., Carthage, MO 64836. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 147136 (Sub-4TA), filed May 2, 1979. Applicant: TOMORROW TRANSPORTS, INC., 1257 Central Avenue, Hamilton, OH 45011. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 W. Broad St., Columbus, OH 43215. *General commodities (except those of unusual value, Class A or B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* from the facilities of Ohio Valley Shippers Association located at Cincinnati, OH, to points in Los Angeles and San Francisco, CA, Portland, OR, and Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Valley Shippers Association, Roger Sickmeier, Manager, 1428 Dalton St., Cincinnati, OH 45214. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 147196 (Sub-3TA), filed January 2, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse (same address as applicant). Applicant is seeking authority as a *contract carrier* over irregular routes to transport *Paper and paper articles* from the facilities of Crown Zellerbach Corporation or those facilities under a continuing lease or contract with Crown Zellerbach Corporation at Houston and Dallas, TX to all points in the states of AR, CO, LA, MO, NM, OK, and TN, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Crown Zellerbach Corp., P.O. Box 1060, Bogalusa, LA 70427. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 147636 (Sub-7TA), filed December 6, 1979. Applicant: LARRY E. HICKOX, d.b.a. Larry E. Hickox Trucking, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *General commodities (except household goods, dangerous articles and commodities in bulk), from Troy, OH to points in AZ, CA, CO, ID, NV, NM, OR, UT, WA, and WY for 180 days. Supporting shipper(s): Trojan Shippers Association, Inc., Big 4 Railroad and Crawford Street, Troy, OH 45373. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.*

MC 148806 (Sub-1TA), filed December 31, 1979. Applicant: GUNNISON TRUCKING, 601 S. Boulevard, Gunnison, CO 81230. Representative: Jack Coleman, 26 Quartz St., P.O. Box 420, Gunnison, CO 81230. *Uranium Ore,* from Homestake Mine approximately 11.1 miles southeast of Sargents, CO, to Homestake Mining Co. located approximately 10 miles from Grants, NM, for 180 days. An ETA requesting up to 90 days authorized. Supporting shipper(s): Homestake Mining Co., 320 N. Main St., Gunnison, CO 81230. Send protests to: District Supervisor H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 148847 (Sub-2TA), filed December 19, 1979. Applicant: WALDEN SAWMILL, INC., Route 5, 1618 Church Street, Booneville, MS 38829. Representative: R. Connor Wiggins, Suite 909, 100 N. Main St., Memphis, TN 38103. *Lumber and lumber mill products,* between points in MS on and north of U.S. 82, on the one hand, and on the other, Collinwood, TN, and points in TN on and west of the TN river, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are two supporting shippers. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 148996 (Sub-1TA), filed January 7, 1980. Applicant: MERCHANTS DELIVERY SERVICE, INC., P.O. Box 999, San Antonio, TX 78294. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, 801 Vaughn Building, Austin, TX 78701. *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 between San Antonio, TX and points in its commercial zone on the one hand, and, on the other, Laredo, TX, and points in its commercial zone. Restricted to traffic having a prior or subsequent movement by rail in trailer on flat car service, for 180 days. Underlying ETA filed. Supporting shipper(s): Riekes Crisa Corporation, 1600 Justo Penn Road, Laredo, TX 78041. Send protests to: Opal M. Jones, TCS, I.C.C., 411 West 7th St., Suite 600, Fort Worth, Texas 76102.

MC 148977 (Sub-1TA), filed December 10, 1979. Applicant: RALPH N. SCHEMM, JR., 3312 Offutt Road, Randallstown, MD 21133. Representative: James W. Patterson, Esquire, 1200 Western Savings Bank Bldg., Philadelphia, PA 21207. *Contract; irregular:* Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, between points in the territory bounded by a line beginning at Cape Charles, VA, and extending in a southerly direction along the Chesapeake Bay to the Atlantic Ocean, thence in a northerly direction along the Chesapeake Bay to the Atlantic Ocean, thence in a northerly direction along the Atlantic Coast to the Delaware Bay, thence along the west shore of the Delaware Bay and Delaware River to Delaware City, DE, thence in a northwesterly direction through Newark, DE, to the point of intersection of the MD-DE-PA State lines, thence in a westerly direction along the MD-PA State line to the Susquehenna River, thence in a northwesterly direction along the Susquehanna River to Columbia, PA, thence in a easterly direction to Lancaster, PA, thence in a northwesterly direction to Lebanon, PA, thence in a westerly direction to Newport, PA, thence in a southwesterly direction to Markleysburg, PA, thence in a southeasterly direction through Winchester, VA and Fredericksburg, VA, to Cape Charles, VA, including points on the above-described boundary line under a continuing contract or contracts with Acme Markets, Inc. Supporting shipper(s): Acme Markets, Inc., 124 North 15th Street, Philadelphia, PA 19101. Send protests to: ICC Fed.

Res. Bank Bldg., 101 N. 7th Street, Rm 620, Phila., PA 19106.

MC 149016 (Sub-1TA), filed December 18, 1979. Applicant: ABSORBENT SALES, INC., 2545 Conner, Detroit, MI 48215. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Malt beverages,* from Detroit, MI to the facilities of Arrow Distributing Co., Inc. at Nashville, TN for 180 days. An underlying ETA seeks 90 days athority. Supporting shipper(s): Arrow Distributing Co., Inc., 1887 Elmtree Drive, P.O. Box 100874, Nashville, TN 37210. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 149017 (Sub-1TA), filed December 13, 1979. Applicant: AIRWAYS SPECIAL DELIVERY, INC., 8356 W. Cristina Avenue, Orland Park, IL 60462. Representative: Irwin D. Rozner, 134 N. LaSalle Street, Chicago, IL 60602. *Contract carrier:* irregular routes: *Parts, equipment, materials, accessories, and supplies, used in the manufacture, distribution, repair and maintenance of agricultural equipment, heavy machinery, fork lift trucks, and internal combustion engines. Restricted against transportation of commodities in bulk and class A and B explosives, under a continuing contract or contracts with Allis Chalmers, Matteson, IL,* between facilities of Allis Chalmers at Matteson, IL, on the one hand, and, on the other, points in IN, MI, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allis Chalmers, 21800 S. Cicero Avenue, Matteson, IL 60443. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 149026 (Sub-1TA), filed December 21, 1979. Applicant: TRANS-STATES LINES, INC., 2604 Industrial Park Rd., Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. (1) *New furniture* crated and uncrated, from Ft. Smith, AR to points in the U.S. (except AK and HI), and (2) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), from points in the U.S. (except AK and HI) to Ft. Smith, AR, and (3) *rough lumber* from points in the U.S. (except AK and HI) to Russellville, AR for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Riverside Furniture Corporation, P.O. Drawer 1427, Ft. Smith, AR 72902. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 149036 (Sub-1TA), filed January 7, 1980. Applicant: MAHAFFEY'S WAREHOUSE, INC., P.O. Box 317, Yellow Jacket, CO 81335. Representative: J. F. Crosby, P.O. Box 37205, I–80 & Hwy. 50, Omaha, NE 68137. *Beer,* from Los Angeles and Fairfield, CA; Portland, OR; and Fort Worth, TX (and points in their commercial zone), to Durango, CO for 180 days. There is an identical ETA seeking 90 days authority. Supporting shipper(s): Durango Ice & Produce Co., Durango, CO; Southwestern Beverage Co., Durango, CO. Send protests to: District Supervisor H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 149056 (Sub-TA), filed December 3, 1979. Applicant: HOLIDAY SYSTEMS, LTD., 1605 Tartan Way, Louisville, KY 40205. Representative: J. Smiley Collins, President (same as above). Passengers and their baggage, in the same vehicle, in special and charter operations, beginning in the states of AL, AR, DC, FL, GA, HI, IL, IN, KY, LA, MI, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA and WV, and extending to all points in the US and internationally, in round-trip operations. Supporting shipper(s): 8 Supporting Shippers; consisting of 4 church groups, 2 schools, 1 newspaper publishing company, and 1 authorized ICC Broker, all of which are located in KY. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY. 40202.

Note.—Under License No. MC 130346, this applicant holds authority to operate as a Broker under the name Holiday International, Inc., Louisville, KY.)

MC 149077, filed December 17, 1979. Applicant: CHARLIE'S PLACE, INC., d.b.a., SUN TRANSPORTATION CO., 5030 Centre Ave., Pittsburgh, PA 15213. Representative: William A. Gray, Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. Contract carrier—irregular routes, *scrap metals and materials, equipment and supplies used in the manufacture, production and distribution thereof,* between Sharpsburg, PA on the one hand, and, on the other, Wheeling and Weirton, WV; Cleveland, Youngstown and Lorain, OH; Buffalo, NY; Chicago, IL; and Gary, IN, under a continuing contract or contracts with The Deitch Co. of Sharpsburg, PA, for 180 days. Supporting shipper(s): The Deitch Co., Sharpsburg, PA. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

Notice No. F–10

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street—Suite 600, Fort Worth, TX 76102.

MC 2960 (Sub-5–1TA), filed March 6, 1980. Applicant: ENGLAND TRANSPORTATION CO. OF TEXAS, 2301 McKinney Street, Houston, Texas 77023. Applicant's Representative: E. Larry Wells, Winkle, Wells & Stafford, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Texas 75245. Common; regular: *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 Oklahoma City, OK and Houston, TX from Oklahoma City over Interstate Hwy. 35 to Dallas, TX, and then over Interstate Hwy. 45 to Houston, and return over the same route, serving Pauls Valley and Ardmore, OK as intermediate points. Restricted to traffic having a prior or subsequent movement by water. Supporting shippers: The Harper Group, 1020 South Main, Suite 200, Grapevine, TX 76051; Central Liquor Co., 4001 N.W. 3rd, Oklahoma City, OK 73147; Metro Beverage Co., 7 N. Ann Arbor Ave., Oklahoma City, OK 73127; Altec Corp., 10500 W. Reno, Oklahoma City, OK 73129; Arthur J. Fritz & Co., 1301 Cornell Parkway, Suite 400, Oklahoma City, OK 73108; Organon Teknika Corp., 5300 South Portland, Oklahoma City, OK; CMI Corporation, P.O. Box 1985, Oklahoma City, OK 73101; John Paschal Tile Co., 1700 W. Reno, Oklahoma City, OK 73106; Darrel J. Sekin & Co., Inc., P.O. Box 5464, Dallas, TX 75222; Moores Cycle, 1537 W. Main, Oklahoma City, OK 73106.

MC 107064 (Sub-5–1TA), filed March 5, 1980. Applicant: STEERE TANK LINES, INC., Post Office Box 220998, Dallas, TX 75222. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Sodium sulphate,* in bulk, from Lea County, NM, to points in the United States (except AK and HI). Supporting shipper: Climax Chemical Co., P.O. Box 1595, Hobbs, NM 88240.

MC 52460 (Sub-5–3TA), filed March 6, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Applicant's representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Coffee and coffee products,* from the facilities of the Procter & Gamble Distributing Company and The Folger Coffee Company at or near Sherman, TX to points in CO and LA. Supporting shipper(s): Procter and Gamnble Distributing Company, P.O. Box 599, Cincinnati, OH 45201.

MC 114211 (Sub-5–5TA), filed March 7, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative:

Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Such commodities as are dealt in or used by agricultural equipment dealers and manufacturers (except in bulk),* from Durham, KS, to points in MT, ND, MN, SD, NE, IA, WI, IL, MI, IN, OH, PA, KY, TN, AL, MS, AR, LA, OK, and MO. Supporting shipper: The Donahue Corporation, P.O. Box 126, Durham, KS 67438.

MC 114890 (Sub-5–1TA), filed March 5, 1980. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Liquid fertilizer solutions, in bulk, in tank vehicles,* from Galena, KS, to the facilities of Kugler Oil Co. at or near Culbertson, NE. Supporting shipper: Eagle-Picher Industries, Inc., P.O. Box 550, Joplin, MO 64801.

MC 119493 (Sub-5–8TA), filed March 7, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, Missouri 64801. *Lumber, plywood, fibreboard, building materials, and wood products* From: New Orleans, LA; Galveston, TX; Holly Hill, SC; and Dublin, GA. To: AR, KS, MO, & NE. Supporting shipper: Ed Weir Plywood & Door Company, 1760 S. Brentwood Blvd., Brentwood, MO 63144.

MC 120673 (Sub–5–2TA), filed March 6, 1980. Applicant: ACME TRANSPORT COMPANY, 3546 Vandalia Road, Des Moines, IA 50317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Ethanol,* from Decatur, IL and its commercial zone, to Des Moines, IA, and its commercial zone. Supporting shipper: Williams Pipeline Company, 2503 Southeast 43rd, Des Moines, IA 50317.

MC 124393 (Sub-5–2TA), filed March 7, 1980. Applicant: FRANK POTTER TRUCKING CO., INC., P.O. Box 132, Boonville, Missouri 65233. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, Missouri 64068. Contract; Irregular; *Machinery, equipment, materials and supplies used in the manufacture, distribution, shipping, packaging and advertising of fiberboard,* from AL, AR, AZ, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, ND, NM, OH, OK, PA, SD, TN, TX, VA, WI, WV and WY to Boonville, MO. Restriction: the operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Huebert Fiberboard Co. in Boonville, MO. Supporting shipper: Huebert Fiberboard, Inc., Boonville, MO 65233.

MC 124813 (Sub-5–2TA), filed March 5, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Feed supplements, in bulk,* from the plantsite of Diamond Shamrock Corporation at Louisville, KY, to Farmland Industries at Eagle Grove, IA. Supporting shipper: Diamond Shamrock Corporation, 1100 Superior Avenue, Cleveland, OH 44114.

MC 127701 (Sub-5–1TA), filed February 25, 1980. Applicant: R. D. KING & H. L. DAVIS, JR., d.b.a. HARRISON CONTRACTING COMPANY, Post Office Box 10, Alpena, AR 72611. Representative: Don Garrison, Esq., Post Office Box 1065, Fayeteville, AR 72701. *Bands of iron or steel fence fittings, die cast or molded, unfinished aluminum castings, and materials, equipment and supplies used in the manufacturing, distribution and sales thereof*—between the facilities of Anchor Post Products, Division of Anchor Die Cast Company, at or near Harrison, AR, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Anchor Post Products, Division of Anchor Die Cast Company, Post Office Box 1197, Harrison, AR 72601.

MC 133655 (Sub-5–2TA), filed: March 7, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Such merchandise as is dealt in by discount and variety stores (except commodities in bulk)* from points in OH, IN, IL, PA, NJ, and NY to points in AL, AR, KY, TN, MS, LA, TX, OK, KS, MO, and IL. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 133805 (Sub-5–2TA), filed March 7, 1980. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Meats, meat products, meat by-products,* and *articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Vernon Calhoun Packing Co., at or near Palestine, TX to points in IN, AL, AR, AZ, CA, CO, FL, GA, IL, IA, KS, KY, LA, MI, MN, MS, MO, NY, NM, NC, NE, OH, OK, PA, SC, TN, WA, UT and VA. Supporting shipper: Vernon Calhoun Packing Co., P.O. Box 709, Palestine, TX 75801.

MC 134142 (Sub-5–2TA), filed March 7, 1980. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Contract; irregular; *meats, meat products, meat by-products, packinghouse products and commodities used by packinghouses (except hides and commodities in bulk, in tank vehicles),* between the facilities of R. B. Rice Company, Inc. at St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI) under a continuing contract or contracts with R. B. Rice Company, Inc. Supporting shipper: R. B. Rice Company, Inc., P.O. Box 328, Lee's Summit, MO 64063.

MC 135007 (Sub-5–1TA), filed March 5, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, Nebraska 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, Missouri 64141. Contract; Irregular. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Spencer Foods, Inc., at Spencer, IA, to the Commercial Zone of Minneapolis, MN. Supporting shipper: Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68661.

MC 135326 (Sub-5–1TA), filed March 5, 1980. Applicant: SOUTHERN GULF TRANSPORT, INC., 4277 N. Market St., Post Office Box 7959, Shreveport, LA 71107. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Import and domestic hardboard and plywood* from any point in Houston or Galveston, TX to any point in TX, OK, AR and LA. Supporting shipper: SWS Associates, Inc., 9100 S.W. Frwy., No. 223, Houston, TX 77074.

MC 135797 (Sub-5–12TA), filed March 5, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esquire, Post Office Box 130, Lowell, Arkansas 72745. *New Furniture:* From the facilities of Simmons Company at Denver, CO and Kansas City, KS to points in ID, MN, MT, ND, SD, and WY. Supporting shipper: Simmons Co., 6428 Warren Drive, Norcross, GA 30093.

MC 135797 (Sub-5–13TA), filed March 6, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130,

Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esquire, Post Office Box 130, Lowell, Arkansas 72745. *Molding:* From Turlock, CA to Points in CT, MI, PA and WI. Supporting shipper: Snider Lumber Company, P.O. Box 670, Turlock, CA 95380.

MC 135797 (Sub-5–14TA), filed March 6, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esquire, Post Office Box 130, Lowell, Arkansas 72745. *Foodstuffs:* From Salem, OR to points in CO, FL, GA, IL, IN, IA, MA, MI, MN, MO, MS, NE, NY, OH, PA, TN, TX, and WI. Supporting shipper: Truitt Brothers, Inc., P.O. Box 309, Salem, OR 97308.

MC 136553 (Sub-5–1TA), filed February 28, 1980. Applicant: ART PAPE TRANSFER, INC., 1980 East 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Soda ash, in bulk, in pneumatic trailers,* from Dubuque, IA, to points in IL. Supporting shipper: FMC Corporation, Industrial Chemical Group, 2000 Market Street, Philadelphia, PA 19103.

MC 138104 (Sub-5–1TA), filed March 6, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. (1) *Building and construction materials (except in bulk), and (2) materials and supplies used in the manufacture and dsitribution of construction materials (except in bulk),* between points in the United States (except AK and HI), restricted to the transportation of shipments originating at or destined to facilities of The Celotex Corporation. Supporting shipper: Jim Walter Corporation, P.O. Box 22601, Tampa, FL 33622.

MC 140829 (Sub-5–5TA), filed March 7, 1980. Applicant: CARGO, INC., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: David L. King, Vice President, P.O. Box 206, US Hwy 20, Sioux City, IA 51102. *Ferrous sulphate, fertilizer and feed grade* (except in bulk in tank vehicles), from the facilities of Cosmin Corporation at or near Baltimore, MD, to points in IL, IN, IA, NJ, NY, OH, PA and VA. Supporting shipper: Cosmin Corporation, 1635 N.E. Loop 410, San Antonio, TX 78209.

MC 140829 (Sub-5–6TA), filed March 7, 1980. Applicant: CARGO, INC., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: David L. King, Vice President, P.O. Box 206, US Hwy 20, Sioux City, IA 51102. *Paper and paper articles,* (1) from Dallas, TX to points in CO, IA, KS, MN, MO, NE, and WI, and, (2) from Memphis, TN to points in CT, IL, IN, MD, MA, MI, NJ, NY, OH and PA, restricted in (1) and (2) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. Supporting shipper: Dixico Incorporated, 4331 Bronze Way, Dallas, TX 75265.

MC 142277 (Sub-5–1TA), filed February 25, 1980. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 2058 Concourse, St. Louis, MO 63141. Representative: Douglas E. Tonkinson, 2058 Concourse, St. Louis, MO 63141. *Laundry care products, home care products, beauty care toiletry products, stainless steel cookware cutlery, and food supplements (except commodities in bulk)* between St. Louis and St. Louis County, MO on the one hand, and, on the other, to points and places in Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Chariton, Clark, Cole, Crawford, Dent, Dunklin, Franklin, Gasconade, Howard, Iron, Jefferson, Knox, Lewis, Lincoln, Linn, Macon, Madison, Maries, Marion, Mississippi, Monroe, Montgomery, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Charles, St. Francis, Ste. Genevieve, St. Louis, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Sullivan, Warren, Washington, and Wayne Counties, MO (on shipments having a prior movement from beyond Missouri). Supporting shipper: Amway Corporation, 7575 East Fulton Road, Ada, MI 49355.

MC 142364 (Sub-5–1TA), filed February 25, 1980. Applicant: KENNETH SAGELY d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Foodstuffs (not frozen)*—from the facilities of Vlasic Foods, Inc., at or near Greenville, MS—to points in AL, AR, GA, IL, IN, KS, LA, MO, OH, OK, PA, TN, TX and VA. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033.

MC 143654 (Sub-5–1TA), filed February 28, 1980. Applicant: DOYLE BRANT, an Individual, 4701 Valley Lane, St. Joseph, MO 64503. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. (1) *Dry animal and poultry feed and dry animal and poultry feed ingredients, and (2) animal health aids and sanitation products,* between St. Joseph, MO and its commerical zone on the one hand, and on the other, points and places in IL. Supporting shipper: Allied Mills, Inc., 7th & Lincoln Streets, Elwood, KS 66024.

MC 144117 (Sub-5–2TA), filed March 5, 1980. Applicant: T. L. C. LINES, INC., P.O. Box 1090, 1666 Fabick Drive, Fenton, MO 63026. Representative: Jack H. Blanshan, Attorney at Law, 205 West Touhy Avenue, Suite 200 Park Ridge, IL 60068. *Confectionery (except commodities in bulk)* from the facilities of Y & S Candies, Inc. at Farmington, NM, and points in its commercial zone to the facilities of Hershey Chocolate Company at Mechanicsburg, Waynesboro and York, PA, and points in their commercial zones. Supporting shipper: Hershey Chocolate Company, 19 East Chocolate Avenue, Hershey, PA 17033.

MC 145384 (Sub-5–2TA), filed March 7, 1980. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles,* from the facilities of H. H. Howard Corporation at Chicago, IL to points in IA and NE. Supporting shipper: H. H. Howard Corporation, 4827 South Kedzie Avenue, Chicago, IL 60632.

MC 145441 (Sub-5–8TA), filed March 6, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, Arkansas 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, Arkansas 72119. (1) *rubber articles, plastic materials, and rubber materials, and* (2) *Equipment, materials, and supplies used in the manufacture* and distribution of commodities in (1), 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). Supporting shipper: Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261.

MC 146047 (Sub-5–1TA), filed March 6, 1980. Applicant: ENNIS CORP., Clarion, Iowa 50525. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Feed, and feed ingredients, (except in tank vehicles),* from Redwing, Hastings, Lake City, and Minneapolis, MN, to points in IA and IL. Supporting shipper: Ralston Purina Company, P.O. Box 1020, Iowa Falls, IA 50126.

MC 146616 (Sub-5–1TA), filed March 6, 1980. Applicant: B & H MOTOR FREIGHT, INC., 3314 East 51st Street, Suite B, Tulsa, Oklahoma 74135. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, Oklahoma 74103. Contract; irregular; *(a) containers, roll-off frames, waste equipment and handling units, parts and supplies, and (b) equipment,*

materials and supplies used in the production and distribution of the commodities named in (a) above, from Bartlesville, OK to points in AZ, CA, CO, LA, OR, TX and VA; from Houston, Dallas and Ft. Worth, TX; New Orleans, LA; Birmingham, AL; and Los Angeles, CA to Bartlesville, OK. Supporting shipper: Scott & Hill Steel Corporation, P.O. Box 1235, Bartlesville, OK 74003.

MC 150225 (Sub-5–1TA), filed March 6, 1980. Applicant: JACK HATT ENTERPRISES, INC., Fourth Avenue and Second Street East, P.O. Box 2141, Cedar Rapids, Iowa 52406. Representative: Richard P. Moore, 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, Iowa 52406. Transporting *general commodities except household goods, Classes A and B explosives, commodities requiring specialized equipment and commodities in bulk, restricted to commodities moving under an air bill of lading and having an immediately prior or subsequent movement by air,* between Cedar Rapids Municipal Airport, Cedar Rapids, IA, on the one hand, and, on the other, O'Hare Field and Midway Airport, Chicago, IL. Supporting shipper: United Airlines, Cedar Rapids Municipal Airport, Cedar Rapids, IA 52401.

MC 148818 (Sub-5–1TA), filed: March 7, 1980. Applicant: CARL PRINCE, d.b.a. PRINCE TRUCKING, Rt. 1, Box 159, Cane Hill, AR 72717. Representative: John C. Everett, P.O Box A, 140 E. Buchanan, Prairie Grove, AR 72753. Transporting *cartoned futniture,* from Conway, AR, to all points and places in NM, TX, LA, KS, OK, MS, AL, TN, KY, MO, OH, IL, IN, IA, NE, WI, FL, and GA. Supporting shipper: Virco Manufacturing Corporation, Hwy. 65 South, Conway, AR 72032.

MC 149026 (Sub-5–1TA), filed March 6, 1980. Applicant: TRANS-STATES LINES, INC., 2604 Industrial Park Road, Van Buren, AR 72956. Representative: Larry C. Price, 301 South Eleventh Street, Fort Smith, AR 72901. Transporting *(1) Foodstuffs, (2) Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and (3) equipment, materials and supplies used in the manufacture, sale and distribution of commodities named in (1) and (2) above.* Between points in the United States (except AK and HI). Supporting shipper: Stokely-Van Camp, Inc.; 941 N. Meridian Street; Indianapolis, IN 46206.

MC 150014 (Sub-5–1TA), filed March 6, 1980. Applicant: Applicant: TRANSWAY, INC., 1320 East 6th. Street, Irving, TX 75060. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract carrier* irregular routes, transporting: *Cleaning and polishing compounds, textile solvents, lubricants, deodorants, disenfectants, hyproclorite solutions, paints, stains, varnishes, plastic bags and filters, and materials, supplies, and equipment used in the manufacture of the commodities named above (except commodities in bulk, in tank vehicles),* between the plantsites and facilities by Economics Laboratory at Garland, TX; Joliet, IL; St. Paul, MN; Avenal, NJ; Atlanta, GA; Miami, FL; City of Industry and San Jose, CA; Waburn, MA; Cincinnati, OH; Detroit, MI; Cleveland, OH; and Charlotte, NC; under continuing contract(s) with Economics Laboratory, of St. Paul, MN. Supporting shipper: Economics Laboratory, Osburn Bldg., St. Paul, MN 55102.

MC 150065 (Sub-5–1TA), filed March 6, 1980. Applicant: Pinner Carpets, Inc., d.b.a. Pinner Transportation, 800 East Eight Street, Odessa, Texas 79761. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Transporting *rugs, carpets, floor covering, and materials and supplies used in the installation and maintenance thereof,* from points in Georgia to points in TX located on and west of U.S. Hwy 283 and on and north of U.S. Hwy 67. Supporting shippers: Crenshaw Carpet, 807 Wink, Odessa, TX 79761, Carpet World, 3221–34 Street, Lubbock, TX 79782, Boyd's Carpet Shworoom, 436 Andrews Hwy,, Midland, TX 79701, House of Carpets, 1530 8th Street, Odessa, TX 79761.

MC 150228 (Sub-5–1TA), filed March 3, 1980. Applicant: RICENBAW TRUCKING, INC., Rural Route No. 2, Beaver Crossing, Nebraska 68313. Representative: Linda Mead, Box 206, Beaver Crossing, Nebraska 68313. *Contract;* irregular; transporting *frozen processed potatoes, frozen fish, canned and frozen fruits and vegetables, refined flour products, poultry products, and shortening,* to Lincoln, Nebraska, from California, San Jose; Colorado, Denver; Idaho, Burley, Caldwell, Nampa, Twin Falls; Illinois, Decatur; Michigan, Traverse City; Missouri, Independence, Kansas City; Nebraska, Gibbon; North Dakota, Grand Forks; Oregon, Ontario; South Dakota, Clark; Utah, Clearfield, Ogden, Salt Lake City; Washington, Seattle; Wisconsin, Oconomowoc and their commercial zones. Supporting shipper: Lincoln Poultry & Egg Company, 2005 "M" Street, Lincoln, Nebraska 68510.

MC 150229 (Sub-5–1), filed March 6, 1980. Applicant: CENTRAL PETROLEUM TRANSPORT, INC., P.O. Box 662, Sergeant Bluff, IA 51054. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting (1) *Anhydrous ammonia,* (a) from Marshalltown, IA, and points in that part of Iowa bounded on the east by Interstate I–35 and on the south by Interstate I–80, including points on the named highways, to points in MN, SD, and NE. (b) from the facilities of Cominco American, Inc. at or near Greenwood, NE, to points in MN, SD, and IA. (2) *Dry fertilizer,* (a) from the facilities of Cominco American, Inc. at or near Hoag, NE, to points in MN, SD, and IA. Supporting shipper: Cominco American, Inc., RR No. 3, Beatrice, NE 68310.

MC 3063 (Sub-5–1TA), filed March 3, 1980. Applicant: INMAN FREIGHT SYSTEM, INC., 321 N. Spring Avenue, Cape Cirardeau, MO 63701. Representative: G. H. Boles (same address as applicant). *Common;* regular. Transporting *filtering or cleaning devices for internal combustion engines or air compressors, and cartridges or elements therefor,* serving the facilities of Rex Filter at or near Fairfield, IL, and those of Champion Laboratories, Inc. at or near W. Salem and Albion, IL, as off-route points in connection with carriers otherwise authorized regular route operations from and to Evansville, IN. Supporting shippers; Rex Filter, Fairfield, IL 62837, and Champion Laboratories, Inc., West Salem, IL 62476.

MC 24784 (Sub-5–1TA), filed February 29, 1980. Applicant: BARRY, INC., 463 South Water, Olathe, Kansas 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, Missouri 64141. Transporting *iron and steel articles* between Manhattan, KS, and points in CO, IA, IL, MO, NE and OK. Supporting Shipper: Steel and Pipe Supply Company, P.O. Box 703, Manhattan, KS 66502.

MC 29910 (Sub-5–3TA), filed March 3, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as above). *Plastic pipe or tubing and materials, equipment and supplies used in the installation thereof,* from Denver, CO to points in AZ, NM, UT, WY, MT, OR, NE, KS, TX, OK, ND and SD. Supporting shipper: Continental Plastics Ind., Inc., 1300 40th St., Denver, CO 80205.

MC 29910 (Sub-5–4TA), Filed March 3, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as above). Common; regular. *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 ServiceMaster Industries, Inc., at or near Cairo, IL as an off-route point in connection with applicant's regular route authority between St. Louis, MO and Memphis, TN. Supporting shipper: ServiceMaster Industries, Inc.; 1210 Commercial Avenue, Cairo, IL 62914.

MC 30844 (Sub-5–7TA), filed: February 25, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 4616 E. 67th St., Tulsa, OK 74121. Applicant's Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Air cleaner filter paper,* from West Groton, CT to Frankfort, IN. Restricted to shipments originating at or destined to the facilities of the Donaldson Co., Inc. at the named origin and destination. Supporting shipper: Donaldson Company, Inc., 1400 W. 94th St., Minneapolis, MN 55431.

MC 47583 (Sub-5–1TA), filed: February 25, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Applicant's representative: D.S. Hults, P.O. Box 225, Lawrence, KS 66044. *Industrial and food chemicals (except in bulk or in tank vehicles);* from Buffalo, NY; Portsmouth, VA; and Trenton, MI to the facilities of Metro Chem, Inc., located at or near Broken Arrow, OK. Restricted to traffic originating at the named origin points and destined to the facilities of Metro Chem, Inc., at Broken Arrow, OK. Supporting shipper(s): Metro Chem Inc., 1509 E. Freeport, Broken Arrow, OK 74012.

MC 52460 (Sub-5–1TA), filed February 29, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Applicant's representative: Wilburn L. Williamson, Suite 615–East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Alcohol, in bulk, in tank vehicles,* from Atchison, KS to points in MO. Supporting shipper(s): Atwell Oil Co., Inc., 8th & Broadway, Monett, MO 65708.

MC 102567 (Sub-5–3TA), filed March 3, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Applicant's representative: Joe C. Day, 13403 Northwest Freeway, Suite 130, Houston, TX 77040. *Petroleum Products, in bulk, in tank vehicles,* from Lake Charles, LA, to all points in TX (except Waskom, Palestine, Lufkin, Silsbee, and Deer Park, TX). Supporting shipper: Morgan Petroleum Company, P.O. Box 8486, Shreveport, LA 71108.

MC 106400 (Sub-5–2TA), filed February 29, 1980. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8510, Sugar Creek, MO 64054. Applicant's representative: Harold D. Holwick, P.O. Box 8510, Sugar Creek, MO 64054. *Alcohol, in bulk, in tank vehicle,* from American Agri-Fuels Corporation plant site in Atchison County, MO to all points in KS. Supporting shipper: American Agri-Fuels Corporation, 1006 Grand Ave. Room 1010, Kansas City, MO 64106.

MC 107496 (Sub-5–4TA), filed February 29, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as above). *Liquid feed supplement, in bulk, in tank vehicles,* from Storm Lake, IA to Eudora, AR. Supporting shipper: Trans-Agra Corporation, 1355 Lynnfield Road, Suite 261, Memphis, Tennessee 38138.

MC 107496 (Sub-5–3TA), filed February 29, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same address as applicant). Transporting *Soybean oil in bulk, in tank vehicles,* from Manning, IA, to points in MN, MO, and NE. Supporting shipper: Agri-Industries, Box 187, Manning, IA 51455.

MC 111231 (Sub-5–1TA), filed February 25, 1980. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Avenue, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting *Electric motors, electric equipment, and articles used in the manufacture and distribution thereof:* Between the facilities of Franklin Electric Co., Inc. at or near Wilberton, OK, on the one hand, and, on the other, Jacksonville, AR; Siloam Springs, AR; Bluffton, IN; Pittsburgh, PA; Indianapolis, IN; Gary, IN; Chicago, IL; Putman County, IL; Birmingham, AL; Toledo, OH; and Hot Springs County, AR. Supporting shipper: Franklin Electric Co., Inc., P.O. Box 490, Hwy. 68 Bypass, Siloam Springs, AR 72761.

MC 111231 (Sub-5–2TA), filed March 4, 1980. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Avenue, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting *Iron and steel, and iron and steel articles, and articles dealt in by manufacturers and distributors of iron and steel articles:* Between the plant site facilities of Standard Steel Sales, Primary Steel, Inc., Universal King Corporation, and Ten Tex Marine, Inc. in Shelby County, TN, on the one hand, and, on the other, all points and places in IN, MI, OH, MO, IL, and KS. Supporting shippers: Standard Steel Sales, 5830 Mt. Moriah Ext., Suite 15, Memphis, TN 38118; Ten Tex Marine, Inc., 382 Klinke Road, Memphis, TN 38127; Universal King Corporation, P.O. Box 18484, Memphis, TN 38118; Primary Steel, Inc., 2672 Channel Avenue, Memphis, TN.

MC 14211 (Sub-5–2TA), filed February 20, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. Transporting *such commodities as are manufactured, distributed, dealt in, or used by manufacturers, distributors or dealers of agricultural machinery and equipment,* between Midland, PA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Adams Hardfacing, P.O. Box 1859, Guymon, OK 73942.

MC 114211 (Sub-5–3TA), filed February 20 , 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. Transporting, (1) *Self-propelled compaction equipment, maintenance equipment and sweepers,* and (2) *parts and accessories for commodities named in* (1) *above,* (1) between New Ulm, MN, and points in TX, PA, ND, AR, WI, UT, VA, WY, OK, and IL, and (2) Between New Ulm and Minneapolis, MN, on the one hand, and, on the other, ports of entry in Ontario, Canada, on the United States/Canadian Boundary. Supporting shipper: Raygo, Inc., 9401 85th Avenue, North, Minneapolis, MN 55445.

MC 114211 (Sub-5–4TA), filed February 20, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. Transporting, *Iron and steel articles,* from Channelview, TX, to point in CO, KS, NE, SD, MN, IA, WI, and IL. Supporting shipper: Geoffrey Metals, Inc., 7826 West 103 Street, Palos Hills, IL 60465.

MC 115331 (Sub-5–1TA), filed February 25, 1980. Applicant: TRUCK TRANSPORT, INCOPRPORATED, 11040 Manchester Road, St. Louis, Missouri 63122. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, Missouri 63122. Transporting, *alcohol and alcoholic liquors, in bulk , in tank vehicles,* from Lindfield, PA to Plainfield, IL. Supporting shipper: Medley Distilling Corporation, P.O. Box 838, Louisville, Kentucky 40201.

MC 116077 (Sub-5–2TA), filed February 29, 1980. Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place, Suite 300, Houston, Texas 77027. Representative: J. C. Browder, Manager of Traffic-Operations, DSI Transports, Inc., 4550 One Post Oak Place, Suite 300, Houston, Texas 77027. Transporting *chemicals, in bulk, in tank vehicles,* from the facilities of the E. I. DuPont Corporation at or near Orange, TX to points in the United States. Supporting shipper: E. I. DuPont de Nemours & Co., 1007 Market Street, Wilmington, Delaware 19898.

MC 116077 (Sub-5–3TA), filed January 29, 1980. Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place, Suite 300, Houston, Texas 77027. Applicant's representative: J. C. Browder, Manager of Traffic-Operations, DSI Transports, Inc., 4550 One Post Oak Place, Suite 300, Houston, Texas 77027. *Rosin Sizing, in bulk, in tank vehicles,* from Oakdale, LA, to Pt. Neches, TX. Supporting shipper: Reichhold Chemical Corporation, Post Office Box 1433, Pensacola, Florida 32596.

MC 117119 (Sub-5–4TA), filed February 29, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. BOX 188, Elm Springs, AR 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, AR 72728. *Chemicals and Plastic Materials in other than tank or hopper vehicles,* from the plantsite of Union Carbide Corporation at Torrance, CA, to points in ID, OR, UT, and WA. Supporting shipper(s): Union Carbide Corporation, 1 California St., San Francisco, CA 94111.

MC 119493 (Sub-5–7TA), filed March 3, 1980. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Missouri 64801. Applicant's representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, Missouri 64801. *Furniture and furniture parts.* From: Gainesville, TX. To: Atlanta, GA and St. Louis, MO. Supporting shipper: Northwood Furniture, P.O. Box 933, Gainesville, TX 76240.

MC 119988 (Sub-5–2TA), filed February 25, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., Post Office Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, Post Office Box 1384, Lufkin, TX 75901. *Power equipment and parts thereof,* from the facilities of McCulloch Corp. at Lake Havasu City, AZ, to points in CA, CO, ID, MT, NE, NM, OR, UT, WA, and WY. Supporting shipper: McCulloch Corporation, 900 Lake Havasu Avenue, Lake Havasu City, AZ 86403.

MC 121589 (Sub-5–1TA), filed March 3, 1980. Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Grain and grain products,* in bags, from Omaha, NE, and Fergus Falls, MN, to Chicago, IL, and points in the Chicago, IL commercial zone. Supporting shipper: Conagra, Inc., 200 Kiewit Plaza, Omaha, NE 68131.

MC 121589 (Sub-5–2TA), filed March 3, 1980. Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Iron and steel articles,* from Chicago, IL and points in its commercial zone, to Grand Island, NE. Supporting shipper: Sperry-New Holland, 3445 West Stalley Park Road, Grand Island, NE 68801. Overhead Door, P.O. Box 2007, Grand Island, NE 68801.

MC 124141 (Sub-5–2TA), filed March 3, 1980. Applicant: JULIAN MARTIN, INC., Post Office Box 3348 (Highway 25 W), Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *(1) Coffee, green in bags, (2) Coffee, roasted in cans, ground and not ground, (3) Coffee, extract of, dry in packages, and (4) Coffee, roasted, ground, in individual pre-measured bags, with or without coffee filters in same box (1–4 except in bulk),* from the facilities of Chock Full O'Nuts Co., New York, NY; New Orleans, LA; and St. Louis, MO, to points in the United States and between the facilities of Chock Full O'Nuts Co. located in New York, NY; New Orleans, LA; and St. Louis, MO. Supporting shipper: Chock Full O'Nuts Co., 425 Lexington Avenue, New York, NY 10017.

MC 124174 (Sub-5–1TA), filed February 27, 1980. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NW 68137. Representative: Karl E. Momsen, 13811 "L" Street, Omaha, NE 68137. Transporting *tile, terrazo clay or concrete,* from Laredo and Roma, TX to Grand Junction, Co; Evansville, IN; Maricopa County, AZ; Reno, NV; Zanesville, OH; and Leesburg, FL. Supporting shipper: General Growth Development, 1055 6th Avenue, Des Moines, IA 50306.

MC 124174 (Sub-5–2TA), filed February 27, 1980. Applicant: MOMSEN TRUCKING, CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 "L" Street, Omaha, NE 68137. Transporting, *tile, facing or flooring concerete, or terrazzo tile and candelilla wax,* from Laredo and Roma, TX to Canajoharie, Fort Johnson, Mamaroneck, West Bablyon, L.I., New York City, Long Island City, NY and Jersey City, NJ. Supporting shipper: Robert A. Baldini Company, Inc., 89 Millburn Avenue, Millburn, NJ 07041.

MC 126118 (Sub-5–5TA), filed March 3, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. Transporting, *Such commodities as are dealt in and used by manufacturers and distributors of health care products, drugs, chemicals, beverages and foodstuffs (except in bulk),* between points in the United States (except AK and HI). Restriction: Restricted to traffic moving to or from facilities utilized by Foremost-McKesson, Inc. Supporting shipper: Foremost-McKesson, Inc., James A. Rowen, Traffic Manager, One Post Street, San Francisco, CA 94104.

MC 126822 (Sub-5–4TA), filed February 29, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt, 15580 South 169 Highway, Olathe, Kansas 66061. Transporting, *glass and glass products* from the facilities of Libbey-Owens-Ford Company, at or near Ottawa, IL, to points in TX. Supporting shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, Ohio 43695.

MC 126822 (Sub-5–5TA), filed February 29, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt, 15580 South 169 Highway, Olathe, Kansas 66061. Transporting, (1) *pipe, pipe fittings, conduit, couplings, roofing and building materials, insulating materials, and materials and supplies used in the installation thereof;* (2) *materials, equipment and supplies used in the manufacture or distribution of the above named commodities* between points in the United States (except AK and HI), restricted to shipments to, from, or between the facilities of CertainTeed Corporation (except commodities in bulk). Supporting shipper: CertainTeed Corporation, Pipe & Plastic Group, P.O. Box No. 1100, Blue Bell, Pennsylvania 19422.

MC 126822 (Sub-5–6TA), filed March 3, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt, 15580 South 169 Highway, Olathe, Kansas 66061. Transporting: *containers, container ends, and container closures and materials, equipment, and supplies used in the manufacture, sale and distribution of containers* between points in the United States (except AK

and HI), restricted to the transportation of shipments moving from, to, or between the facilities of Crown Cork & Seal Co., Inc. Supporting shipper: Crown Cork & Seal Co., Inc., 9300 Ashton Road, Philadelphia, Pennsylvania 19136.

MC 134405 (Sub-5–2TA), filed March 3, 1980. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *asphalt, in bulk, in tank vehicles,* from Smiths Bluff, TX to Oklahoma City, OK. Supporting shipper: Trumbull Asphalt Division of Owens-Corning Fiberglas Corp., 3400 N.E. 4th Street, Oklahoma City, OK 73117.

MC 135678 (Sub-5–1TA), filed March 3, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Okla. City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Okla. City, OK 73106. Transporting: (1) *cabinets, radio, phonograph, tape or wire player or recorder, or loud speaker, wire on spindle full or empty, NOI mechanism or apparatus, SU, Box type:* (2) *Horns, sound amplifying or directing w/o electrical components, wooden, SU, not nested; horns signals, sound wiring, NOI, electrical appliances or instruments, NOI, or loud speakers; dynamic or electro-magnet or permanent magnet type w/o cabinets, housing or horns, or in other than console type cabinets or housing;* (3) *Stands, microphone, floor, with cast iron bases, bases separated. Sets, radio amplifiers; transformers, NOI, weighing each 25 pounds or more, Transformers, NOI, weighing each less than 25 pounds, or transformer parts, NOI;* (4) *Equipment, materials and supplies used in the manufacturing of commodities set out in Par. (1), (1) and (3) above,* from OK City, OK to Gardena, Anaheim, Downey, Azusa and Hawthorne, CA and Bend, OR. Supporting shipper: Altec Lansing Corp., 7747 Gemini St., Okla. City, OK 73126.

MC 135797 (Sub-5–10TA), filed February 29, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, AR. Representative: Paul R. Bergant, Esquire (same address as applicant). Transporting: *air conditioning equipment, furnaces, stoves, and parts and accessories thereto,* from the facilities of Carrier Corporation located at or near Los Angeles, CA, to points in PA. Supporting shipper: Carrier Corporation, Post Office Box 4800, Syracuse, NY 13221.

MC 139457 (Sub-5–2TA), filed February 25, 1980. Applicant: G. L. SKIDMORE d.b.a., JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O Box 2207, Austin, TX 78768. Transporting *(1) Canned and preserved foodstuffs and canned and packaged animal food, and (2) ingredients and supplies used in the manufacture of the commodities in (1) above,* (1) from the facilities of German Village Products, Inc., at or near Wauseon, OH, to Dallas and Paris, TX. Supporting shipper: German Village Products, Inc., Napolean, OH 43545.

MC 140612 (Sub-5–1TA), filed February 25, 1980. Applicant: ROBERT F. KAZIMOUR, P.O Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour, P.O Box 2207, Cedar Rapids, IA. 52406. Transporting *such commodities as are dealt in or used by retail stores (except foodstuffs, alcoholic beverages and commodities in bulk in tank vehicles),* between Northridge, CA. and its commercial zone on the one hand and on the other, points in AZ, CO, CT, DE, FL, ID, MD, MA, ME, MT, NC, NH, NJ, NM, NV, NY, OR, PA, RI, SC, UT, VA, VT, WA, WV. Supporting shipper: Industrial Industries International 19411 Londelius Street, Northridge, CA 91324.

MC 140665 (Sub-5–3TA), filed February 19, 1980. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *salad dressings, (except frozen and commodities in bulk),* from the facilities of Swiss chalet Food Products Co. at or near Wichita, KS to Fredericksburg, VA; Atlanta, GA; and Orlando, FL. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: The Clorox Company, 1221 Broadway, Oakland, CA 94612.

MC 140665 (Sub-5–4TA), filed February 25, 1980. Applicant: PRIME, INC., Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *foodstuffs, in vehicles equipped with mechanical refrigeration,* from Vernon, CA to points in the United States in and east of ND, SD, NE, OK, KS, and TX. Supporting shipper: Alex Foods, Inc., 2750 E. 50th St., Vernon, CA 90058.

MC 140665 (Sub-5–5TA), filed February 25, 1980. Applicant: PRIME, INC., Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting, *foodstuffs (except commodities in bulk)* (1) between the facilities of American Home Foods at or near Vacaville, CA, LaPorte, IN, and Milton, PA; and (2) from the facilties of American Home Foods located at or near Vacaville, CA to Chicago, IL. Supporting shipper: American Home Foods Division of American Home Products Corporation, 685 3rd Ave., New York, NY 10017.

MC 141914 (Sub-5–1TA), filed March 3, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, OK 74332. Transporting, *plastic products* from Tupperlake, NY, to points in CA, GA, IL, NJ, SC, TX, VA and WI. Supporting shipper: O. W. D., Inc., 100 Demars Boulevard, Tupper Lake, NY 12986.

MC 143953 (Sub-5–1TA), filed February 22, 1980. Applicant: ELITE TRUCKING COMPANY, P.O. Box 69, Station E, St. Joseph, Missouri 64505. Representative: W. R. England III, Hawkins, Brydon & Swearengen P. C., P.O. Box 456, Jefferson City, Missouri 65102. *Contract carrier,* irregular routes, *weed and tree killing compounds, in five-gallon pails, except commodities in bulk, in tank vehicles,* from the plant-site facilities of Rhodia, Inc., at or near St. Joseph, MO, to all points in CA, ID, ND, IL, OR and WA, under continuing contract with American Hoechst Corporation. Supporting shipper: American Hoechst Corporation, Rt. 202–206 N., Somerville, NJ 08876.

MC 144105 (Sub-5–1TA), filed March 3, 1980. Applicant: OVERLAND EXPRESS, INC., 6440 North Broadway, Wichita, KS 67219. Representative: Glaves, Weil, and Evans, 120 Building, 120 South Market, Wichita, KS 67202. Transporting, *animal and poultry feeds and feed ingredients and sanitation and health products used in raising animals and poultry, in mixed loads,* between Kansas City, MO; Wichita, KS; and McPherson, KS, on the one hand, and, on OK and TX. Supporting shipper: Cargill, Inc., Post Office Box 2696, Wichita, KS 67201; Cargill, Inc. (nutrena), First and Baer Street, Post Office Box 678, McPherson, KS 67460.

MC 14462 (Sub-5–5TA), filed February 25, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same address as applicant). Transporting *refractories, foundry supplies, chemicals, and chemical products, (except in bulk)* from Chicago, IL to points in OR, WA, and UT, and from points in OR, WA, and UT, and from points in OR and NV, to Cleveland, OH. Supporting shipper: FOSECO, INC. 20200 Sheldon Road, Brookpart, OH 44142.

MC 144821 (Sub-5–1TA), filed February 15, 1980. Applicant: FREEDOM FREIGHTWAYS, INC., P.O. Box 5850, St. Louis, MO 63134. Representative: Raymond Ellsworth, P.O. Box 5850, St. Louis, MO 53134. Transporting *such commodities as are dealt in or used by automotive or truck service centers and retail or wholesale business houses* from points in the U.S., except AK and HI, to St. Louis, MO; Ferndale, MI; Mt. Laurel, NJ; and Compton, CA, restricted to shipments originating at or destined to facilities utilized by Texstar Automotive Distribution Group. Supporting shipper: Texstar Automotive Distribution Group, 9060 Latty Avenue, St. Louis, MO 63134.

MC 144858 (Sub-5–1TA), filed February 25, 1980. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799 Little Rock, Arkansas 72219. Representative: Harvey K. Thompson. Transporting *frozen Foodstuffs (except in bulk),* between the facilities of Northern Star Company located at or near Minneapolis, MN, on the one hand, and, on the other, points in AR as follows: Little Rock, Hope, Batesville, Hot Springs, Texarkana, Fort Smith, Fayetteville, Heber Springs, Jonesboro, Pine Bluff, Rogers and Springdale. Restricted to traffic originating at the facilities utilized by the Northern Star Company at the named origin and destined to points in the named states. Supporting shipper: Northern Star Company, 3171 South East Fifth Street, Minneapolis, MN, 55414.

MC 145119 (Sub-5–1TA), filed February 29, 1980. Applicant: LINT TRANSFER, INC., 4549 Delaware Avenue, Des Moines, IA 50313. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier;* Irregular. *Tires, tire parts and inner tubes,* between the facilities of The Firestone Tire & Rubber Company, at Des Moines, Iowa, on the one hand, and, on the other, Fargo, ND, La Crosse, WI, and points in MN and SD, under contract with The Firestone Tire & Rubber Company. Supporting shipper: The Firestone Tire & Rubber Company, 2nd and Hoffman, P.O. Box 1295, Des Moines, IA, 50305.

MC 145441 (Sub-5–7TA), filed March 3, 1980. Applicant: A.C.B. TRUCKING, INC., Post Office Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). *Paper and plastic bags, rolls of wrapping paper,* from the plantside of International Paper Company at or near Jackson, TN, to points in CA and points in and east of WI, IL, MO, KS, OK, and TX. Supporting shipper: International Paper Company, 220 East 42nd Street, New York, NY 10017.

MC 145947 (Sub-5–1TA), filed March 3, 1980. Applicant: SHELTON D. SMITH d.b.a. PROTOCOL TRUCKING COMPANY, a sole proprietorship, P.O. Box 40098, Garland, Texas 75041. Representative: William D. White, Jr., 4200 Republic National Bank Tower, Dallas, Texas 75201. *Contract;* Irregular. *Drilling Mud, including friction reducers, non-foaming agents, gels (muds), (restricted against the transportation of said commodities in bulk, in tank vehicles),* from the facilities of Fritz Chemical Company at Mesquite, Texas to TX gulf ports for export—Houston, Galvenston and Brownsville, under a contract with Hallkiburton Services, P.O. Box 1431, Duncan, Oklahoma 735333.

MC 146744 (Sub-5–2TA), filed February 25, 1980. Applicant: A. L. EUBANKS, Route 2, Box 45–6, Mt. Carmel Road, Cabot, AR. Representative: A. L. Eubanks, (same address as applicant). *Ventilating products, roof louvers, trubines, and shutters,* between Jacksonville, AR, on the one hand, and, on the other, any and all points in CA. Supporting shipper: Lomanco, Inc., 2101 W. Main, Jacksonville, AR 72076.

MC 148886 (Sub-5–1TA), filed February 11, 1980. Applicant: A & A TRUCKING, INC., Post Office Box 538, Stephens, AR 71764. Representative: Joe D. Woodward, Post Office Box 727, Magnolia, AR 71753. *Roofing and roofing materials and supplies used in the manufacture of roofing and roofing materials,* between the plantsite and storage facilities of the Elk Corporation located at Stephens, AR, on the one hand, and all points in AL, KY, LA, MO, OK, TN, and TX, on the other hand. Supporting shipper: Elk Corporation, Post Office Box 37, Stephens, AR 71764.

MC 149206 (Sub-5–1TA), filed February 4, 1980. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian F. Brewton, P.O. Box 508, Winnfield, LA 71483. *Wire, wire products, fencing, fencing materials and supplies* between the facilities of Bekaert Steel Wire Corporation at or near Van Buren, AR on the one hand and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Bekaert Steel Wire Corp., P.O. Box 668, Van Buren, AR 72956.

MC 149323 (Sub-5–1TA), filed March 3, 1980. Applicant: BINGHAM TRANSPORTATION, INC., 2005 E. Avenue, Baxter Springs, KS 66713. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Salt, in Bulk, From Port of Catoosa, OK to points in KS on and South of US Hwy 56 and points in MO on and West of US Hwy 63 and on and south of US Hwy 50. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55440.*

MC 150008 (Sub-5–2TA), filed March 3, 1980. Applicant: KUELLA, INC., Rt. 2, King City, MO 64463. Representative: Lee Reeder, Michael A. Knepper, 1221 Baltimore Avenue, Suite 310, Kansas City, MO 64105. *Hides, partially processed, on pallets,* from St. Joseph, MO to Kansas City, KS restricted to shipments having subsequent movement by rail. Supporting shipper: Prime Tanning Co., Inc., Berwick, ME 03901.

MC 150102 (Sub-5–1TA), filed March 3, 1980. Applicant: MUSTANG TRANSPORTATION, INC., 1101 Rue Corton, Slidell, LA 70458. Representative: Albert T. Riddle, 1101 Rue Corton, Slidell, LA 70458. *Contract; Irregular, tires, tubes, wheels, wheel nuts, wheel weights, tire valves, and hub wheel clips* between Armstrong Rubber Co. Plant located in Natchez, MS and Sears Roebuck & Co. Facilities located in the states of LA, TX, OK and NM. Supporting shipper: Sears Roebuck and Company, 1409 South Lamar Street, Dallas, TX 75295.

MC 150195 (Sub-5–1TA), filed February 29, 1980. Applicant: RAHMEIER TRUCKING, INC., P.O. Box 283, Salina, KS 67401. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Contract;* irregular; transporting *Part (1) wood-burning stoves; fireplace inserts and accessories, equipment, materials, and supplies used in conjunction with or in the maintenance of wood-burning stoves and fireplace inserts,* between the facilities of Big M Manufacturing & Equipment, Inc. at or near Nickerson, KS, to AL, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MT, NV, NH (except Bow), NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI and WY, between the facilities of Cullinson Manufacturing, Inc. at or near Alva, OK to points in AL, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MT, NV, NH (except Bow), NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI and WY between the facilities of Fisher Stoves Co., Inc., at/or near Wichita, KS to points in AL, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MT, NM, NH, (except Bow), NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI and WY.

Part (2) wood-burning stoves and fireplace inserts, components, equipment, accessories, materials and supplies used and useful in the manufacturing, maintenance and/or transportation of the commodities in Part (1) above, from all points and places in the 48 contiguous states to points in AR, KS, MO, NE and OK, restricted, however, to provide no service from the Commercial Zones of Granite City and Wheaton, IL; Bow, NH; Memphis, TN; Salem, VA; Dover, OH; Eugene, OR; Everett and Avon, MA; E. Hartford, CT; Jamaica, Long Island, NY and Philadelphia, PA, to the facilities of Big M Manufacturing & Equipment, Inc. at or near Nickerson, KS or the facilities of Cullinson Manufacturing at or near Alva, OK. Under contract with Fisher Stoves Co. Inc. Supporting shipper: Fisher Stoves Co. Inc., 104 S. Broadway, Douglas Bldg, Suite 111, Wichita, KS 67202.

MC 150198 (Sub-5–2TA), filed March 3, 1980. Applicant: NASH TRUCKS, INC., Box 158, Altamont, KS 67330. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *dry fertilizer,* from the facilities of Gulf Oil Chemicals Co located in Cherkee County, KS to points and places in AR, OK and MO. Supporting shipper: Gulf Oil Chemicals Co., P.O. Box 6200B, Pittsburg, KS 66762.

MC 150199 (Sub-5–1TA), filed February 29, 1980. Applicant: MISSOURI AND NORTH ARKANSAS TRANSPORTS, INC., 511 Huntington Place, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Common; Regular. *General commodities, with the usual exceptions,* (1) between Harrison, AR and Kansas City, MO, and points in their commercial zones; from Harrison over U.S. Hwy 65 to Springfield, MO, then over MO Hwy 13 to junction MO Hwy 7, then over MO Hwy 7 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City and return over the same route, serving no intermediate points. Applicant intends to interline with other carriers in Harrison, AR and Kansas City, MO. Supporting shipper: Approximately 28 shippers.

MC 150201 (Sub-5–1TA), filed February 25, 1980. Applicant: SAM F. HARKEY, doing business as SAM F. HARKEY TRUCKING, Box 423, Holdenville, OK 74848. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Contract; Irregular. *Bentonite Clay, except in bulk,* from the facilities of American Colloid Co., Big Horn, Crook and Weston Counties, WY, and Phillips County, MT to points in OK and TX. Supporting shipper: American Colloid Co., P.O. Box 228, Skokie, IL 60077.

MC 150202 (Sub-5–1TA), filed March 3, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Avenue, Memphis, TN 38103. Contract; Irregular. *Glass bottles and jars, and equipment, materials, and supplies used in the manufacture of glass bottles and jars (except commodities in bulk),* between Jonesboro, AR, on the one hand, and, on the other, AL, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WI. Supporting shipper: Arkansas Glass Container Corporation, 516 West Johnson, Jonesboro, AR 72401.

MC 140364 (Sub-5–1TA), filed February 22, 1980. Applicant: ARMOUR FOOD EXPRESS COMPANY, P.O. Box 2785, Amarillo, TX 79105. Representative: L. J. Celmins, Senior Commerce Attorney, Greyhound Tower, 111 West Clarendon Avenue, Phoenix, AZ 85077. Contract carrier, irregular routes, *meats, meat products, meat by-products, dairy products, articles distributed by meat packinghouses,* and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers as described in Sections A, B, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk) between points in California, Oregon and Washington under contract(s) with Armour and Company, Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Armour and Company, Greyhound Tower, 111 West Clarendon Avenue, Phoenix, AZ 85077.

MC 106398 (Sub-5–2TA), filed February 22, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, OK 74120. *Furniture and iron or steel.* From: The facilities of B.E.F. Manufacturing Company, Inc., at Earle, AR. To: Points in AL, TX, LA, GA, FL, NC, SC, TN, MS and AR.

MC 41432 (Sub-5–3TA), filed February 14, 1980. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Dallas, TX 75207. Representative: Wayland Little, Director of Commerce, Registered Practitioner, 2355 Stemmons Freeway, Dallas, TX 75207. *Yeast,* between San Antonio and Houston, TX, on the one hand, and, on the other, Corpus Christi, TX, for 180 day. Applicant intends to tack with MC–41432 and subs thereto and to interline. Applicant has filed an underlying ETA for 90 days. Supporting shipper: Anheuser-Busch Companies, 721 Pestalozzi, St. Louis, MO 63118.

MC 139973 (Sub-5–1 TA), filed, February 21, 1980. Applicant: J.H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *(1) Construction machinery, equipment and parts; (2) agricultural machinery, implements, equipment and parts; (3) electrical applicances, equipment and parts; (4) automotive equipment, accessories and parts; (5) pumps; (6) compressors; (7) iron and steel articles and (8) equipment, materials and supplies* (except commodities in bulk) *used in the manufacture, sale or distribution of the commodities in (1) through (7),* Between Boaz, AL; Florence, KY; St. Louis, MO; Boyertown, PA; Holyoke, MA; York, PA; Maspeth, NY; Clemmons, NC; Minneapolis, MN; Huntsville, AL; Taneytown, NJ; Shawnee, OK; Mountainside, NJ; Buffalo, NY; Harrison, NJ; Wellsville, NY; East Orange, NJ; and Curtland, NY, on the one hand, and, on the other, points in the United States (except AK & HI), restricted to traffic originating at or destined to the facilities of McGraw-Edison Co., or its subsidiaries. Supporting shipper: McGraw-Edison Co., 1275 Davis Road, Elgin, IL 60120.

MC 96992 (Sub-5–1TA), filed February 21, 1980. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, Texas 78539. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165 (801 Vaughn Bldg.), Austin, Texas 78768. *Such commodities as are dealt in or used by manufacturers of Photographic Products,* from the facilities of Eastman Kodak, Co. at Rochester, NY, to the facilities of Eastman Kodak Co. at Chamblee, GA and Dallas, TX, and from the facilities of Eastman Kodak Co. at Rochester, NY to Laredo, TX, for export beyond Laredo, TX. Supporting shipper: Eastman Kodak Co., 2400 Mt. Read Blvd., Rochester, NY, 14650. An underlying ETA seeks 90 days authority.

MC 125299 (Sub-5–2TA), filed February 21, 1980. Applicant: WITTE BROTHERS EXCHANGE, INCORPORATED, 690 E. Cherry Street. Troy, MO 63379. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. Plastic products from the plantsite and facilities

of Regal Industries, Inc. at or near Wentzville, MO to points in the U.S., except Alaska and Hawaii for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Regal Industries, Inc., P.O. Box 65, Wentzville, MO 63385.

MC 124025 (Sub-5–1TA), filed February 21, 1980. Applicant: GLASS TRUCKING COMPANY, P.O. Box 276, 200 Chestnut Street, Newkirk, OK 74647. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Contract carrier, irregular routes, transporting *Flour,* Between the facilities of International Multifoods Corporation, Blackwell, OK and points in AR, KS, MO and TX.

MC 146879 (Sub-5–1TA), filed February 21, 1980. Applicant: L. E. CAWOOD, d.b.a. L. E. CAWOOD PRODUCE, P.O. Box 83, Springdale, AR 72764. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. Contract carrier, irregular routes: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business* (except commodities in buik), from Cincinnati and Columbus, OH to San Antonio, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201.

MC 93840 (Sub-5–2TA), filed February 25, 1980. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Liquid fertilizer, in bulk, in tank vehicles,* from points in Lee County, Iowa, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI. Supporting Shipper: First Miss, Inc., P.O. Box 328, Ft. Madison, IA 52627.

MC 4405 (Sub-5–1TA), filed February 22, 1980. Applicant: DEALERS TRANSIT, INC., a corporation, P.O. Box 236, Tulsa, OK 74101. Representative: Leonard L. Bennett, P.O. Box 236, Tulsa, OK 74101. *Irrigation systems, and equipment and parts thereof* from the facilities of Irrifrance U.S.A. Inc. at or near Charlotte, NC, to points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Irrifrance U.S.A., 8011 Pence Road, Charlotte, NC 28212.

MC 109818 (Sub-5–1TA), filed February 22, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Represenatative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Flour,* in bags (1) From Omaha, NE, to Moline and Chicago, IL, and points in their commercial zones, and (2) From Fergus Falls, MN, to points in IL. Supporting shipper: Con-Agra Inc., 200 Kiewit Plaza, Omaha, NE 68131.

MC 136786 (Sub-5–4TA), filed February 22, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Frozen fruits and vegetables* between storage and warehouse facilities used by Curtice-Burns, Inc. located at or near Brockport and Holley, NY, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WI, WV and DC for 180 days. Supporting shipper: Curtice-Burns, Inc., LeRoy, NY 14482.

MC 147248R (Sub-5–2TA), filed February 22, 1980. Applicant: CONTAINER SHUTTLE SERVICE CORP., 6950 College Oaks "G", Beaumont, TX 77707. Representative: Charles Norris Driver, Container Shuttle Service Corp., 6950 College Oaks "G", Beaumont, TX 77707. General Commodities (except Articles of unusual value, Classes A & B explosives, houshold goods as defined by the Commission commercial papers, documents and written instruments as are used in the business of banks and banking institutions, stocks, bonds, securities and negotiable instruments and commodities in bulk, in tank vehicles) in ocean going containers or highway trailers, having a prior or subsequent movement by water or rail, to or from points beyond the State of Texas. Between points in the Beaumont, TX Commercial Zone and points in the Houston and Galveston, TX Commercial Zones. Supporting shipper: Texas-U.S. Chemical Co., P.O. Box 667, Port Neches, TX 77651; Missouri-Kansas-Texas Railroad Co., P.O. Drawer 38385, Dallas, TX 75238.

MC 134501 (Sub-5–1TA), filed February 21, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, Morgan Brown & Schneider, P.O. Box 1540, Edmond, OK 73034. *Used and reconditioned hospital furniture, fixtures and equipment,* between points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days of operating authority. Supporting shipper: Walnut Street Company, Division of Hill-Rom, Inc., East Pearl Street, Batesville, IN 47006.

MC 141443 (Sub-5–3TA), filed February 21, 1980. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton Street, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Furniture parts and materials and supplies used in the manufacture and distribution thereof* (1) From Hominy, OK to Ennis and Houston, TX, Los Angeles, CA and Phoenix, AZ and (2) Carthage, MO to Ennis and Houston, TX, for 180 days. Supporting shipper(s): Leggett & Platt Incorporated, P.O. Box 757, Carthage, MO 64836.

MC 96992 (Sub-5–2TA), filed February 22, 1980. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. *Gasoline,* in bulk, in tank vehicles, from Center, Longview and Tyler, TX, to Alexandria, Bossier City, Haughton, Leesville, Minden, Monroe, Natchitoches, Ruston and Shreveport, LA. Supporting shipper: Southland Corporation, 3645 Southern Avenue, Shreveport, LA 71104.

MC 113908 (Sub-5–4TA), filed February 22, 1980. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 10068 G.S., Springield, MO 65804. Representative: Jim G. Erickson, Assistant Traffic Manager (same address as applicant). *Alcohol and alcoholic liquors, in bulk,* from: Linfield, PA, and the commercial zone thereof to: South San Francisco, CA, and the commercial zone thereof. Supporting shipper: E. Martinoni Co., 543 Forbes Blvd., South San Francisco, CA 94080.

MC 118468 (Sub-5–1TA), filed February 22, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier,* irregular routes, transporting: *Lumber and timbers* from Ashland and Tomah, WI, to points in IA, under contract with Emmer-Eagle Grove, Inc., of Eagle Grove, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Emmer-Eagle Grove, Inc., 6800 France Avenue South, Minneapolis, MN 55435.

MC 126118 (Sub-5–3TA), filed February 22, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Floor*

coverings, counter coverings, and wall coverings and equipment, materials and supplies used in the manufacture and distribution of the foregoing commodities, from Miami, FL; Monticello, AR; Rocky River, OH; Philadelphia, PA; Lancaster, PA; Camden, NJ; and Chattanooga, TN and points in their respective commercial zones to Lincoln, NE and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cubbison Distributing Co., Gary Ledin, Assistant Manager, 3333 N. 20th St., Lincoln, NE 68521.

MC 124393 (Sub-5–1TA), filed February 22, 1980. Applicant: FRANK POTTER TRUCKING CO., INC., P.O. Box 132, Boonville, MO 65233. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Contract carrier,* irregular routes transporting: *Beer and/or mix products,* from Milwaukee, WI, Ft. Worth-Dallas, TX, Omaha, NE, Evansville, IN and Byhalia, MS to Boonville, Moberly, Jefferson City and Sedalia, MO.

MC 143701 (Sub-5–1TA), filed February 22, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Such commodities as are dealt in by grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Inland Storage Distribution Center, at or near Kansas City, KS, on the one hand, and, on the other, points in the United States (except AK, HI, IL, IN, MI, OH, and WI.) Restricted to the transportation of traffic originating at or destined to the named facilities.

MC 108207 (Sub-5–1TA), filed February 22, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), 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, and Foodstuffs, from the facilities utilized by John Morrell & Co., at or near Lubbock, TX, to points in CO on and east of the Continental Divide.

MC 136786 (Sub-5–3TA), filed February 22, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Mulch, consisting of shredded printed matter and trim,* from Mattoon, IL to points in the U.S. (except AK and HI), restricted to transportation of traffic originating at the facilities of R. R. Donnelly & Sons Co. An underlying ETA seeks up to 90 days authority. Supporting shipper: R. R. Donnelly & Sons Co., P.O. Box 189, North Route 45, Mattoon, IL 61938.

MC 134286 (Sub-5–2TA), filed February 22, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Represenatative: Julie Humbert (same address as above). *Frozen bagels* (except in bulk) (1) from the facilities of Lender's Bagel Bakery, Inc. at or near Buffalo, NY to points in KY; and (2) from the facilities of Lender's Bagel Bakery, Inc. at or near West Haven, CT, to the facilities of Lender's Bagel Bakery, Inc. at or near Buffalo, NY for 180 days. Underlying ETA. Supporting shipper: Marvin Lender, Lender's Bagel Bakery, Inc., Post Road, West Haven, CT 06516.

MC 134286 (Sub-5–3TA), filed February 22, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Represenatative: Julie Humbert (same address as above). *Foodstuffs* (except in bulk) from the facilities of Vlasic Foods, Inc. at or near Memphis, Bridgeport, and Imlay City, MI, to points in CO for 180 days. Underlying ETA. Supporting shipper: Ira M. Kaplan, Director of Distribution, Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033.

MC 150004 (Sub-5–1TA), filed February 22, 1980. Applicant: FRANK D. JAMES d.b.a. F & J LEASING, 731 Campbell, P.O. Box 13806, St. Louis, Missouri 63147. Represenatative: Joseph E. Rebman, 314 North Broadway, Suite 1330, St. Louis, Missouri 63102. *Common carrier,* regular routes, transporting: *CTN tubes, cathode ray, television picture receiving or CTN televisions or vision receiving sets, radio receiving sets, phonographs, talking machines, tape or wire records in shippers own trailers,* between rail ramps in the St. Louis, MO-East St. Louis, IL commercial zone and the facilities of Zenith Radio Corp. at or near Springfield, MO for 180 days. Supporting shipper: Zenith Radio Corp., 1900 North Austin Avenue, Chicago, IL 60639.

MC 119399 (Sub-5–2TA), filed February 22, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Represenatative: Thomas P. O'Hara, P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. *Cheese* from Tangipahoa, LA to Carthage, MO. Supporting shipper: L. D. Schreiber Cheese Co., Inc., Green Bay, WI.

MC 119493 (Sub-5–4TA), filed February 25, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, P.O. Box 1196, Joplin, MO 64801. *Rubber articles, plastic articles, rubber materials, plastic materials, and materials and equipment and supplies used in the manufacture and distribution thereof* (except commodities in bulk in tank vehicles). Between facilities of Entek Corp. of America at or near Irving, Texas on the one hand; And points in the U.S. (except AK & HI) on the other hand. No ETA filed. Supporting Shipper is Entek Corporation of America, 104 County Line Road, Irving, Texas 75060.

Note.—No dual operation will be involved. Common control will not be involved. If a hearing is deemed necessary, applicant requests that it be held at: ————.

MC 140829 (Sub-5–4TA), filed February 25, 1980. Applicant: CARGO, INC., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: David L. King, Vice President, P.O. Box 206, US Hwy 20, Sioux City, IA 51102. *Foodstuffs, in mechanical refrigerated equipment* (except commodities in bulk, in tank vehicles), from the facilities of Anderson Clayton Foods, at or near Jacksonville, IL, to points in AL, FL, GA, NC, SC, TN, VA and WV, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 226165, Dallas, TX 75222.

MC 148914 (Sub-5–2TA), filed February 21, 1980. Applicant: ASTRO MOTOR FREIGHT SYSTEM, INC., 6th and Iron, Salem, MO 65560. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Common carrier, *regular routes, General commodities,* except household goods, commodities which because of size or weight require the use of special equipment, classes A and B explosives, commodities in bulk, and those injurious to other lading, (1) between Kansas City, MO and Rolla, MO: (a) from Kansas City over U.S. Hwy 70 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Rolla, MO and return over the same route; (b) from Kansas City over U.S. Hwy 50 to its junction with U.S. Hwy 63, then over U.S. Hwy 63 to Rolla, MO and return over the same route; (2) between Kansas City, MO and Springfield, MO, serving Springfield, MO

for purposes of joinder only: (a) from Kansas City 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; (b) from Kansas City over U.S. Hwy 50 to junction MO Hwy 13, then over MO Hwy 13 to Springfield, MO and return over the same route, for 180 days. Applicant seeks to tack this authority with authority presently held. Underlying ETA filed. There are 23 supporting shippers.

MC 144901 (Sub-5–1TA), filed February 25, 1980. Applicant: INTERMODAL SYSTEMS, INC., 4740 Roanoke Parkway, Kansas City, MO 64111. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Foodstuffs and agricultural commodities,* as defined by 49 U.S.C. Section 10526(a)(6) (except commodities in bulk) between points in California, Ohio, Illinois, Indiana, Kentucky, Missouri and Tennessee. *Restricted* to traffic which involves the substitution of trailer-on-flat-car service for a portion of the through movement, and further restricted to traffic which either originates at points in California, and is destined to points in Ohio, or which originates at points in Ohio, and is destined to points in California. For 180 days. Supporting shipper(s): There are seven statements of support attached to the application.

MC 150116 (Sub-5–1TA), filed February 19, 1980. Applicant: COX BROS TRUCKING, Route 1, Waynesville, MO 65583. Representative: Wayne Gifford, 409 City Route East, Waynesville, MO 65583. *Contract carrier,* irregular routes, *Tires, tubes, accessories, and other similar items,* between Memphis, Tennessee on the one hand, and on the other, Springfield, Missouri and Columbia, Missouri for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: MFA Oil Company, 2738, E. Kearney, Springfield, Missouri 65804.

MC 142508 (Sub-5–4TA), filed February 25, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, Post Office Box 37465, Omaha, Nebraska 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, Nebraska 68137. *Drugs, medicines, toilet preparations, health care items, alumina and magnesium hydroxide* from Philadelphia, PA and Lewes, DE, to points in the United States (except AK, ME, NH, VT, NY, PA, VA, NJ, MD, MA, RI, CT, DE, WV, DC, and HI) for 180 days. Supporting shipper: William H. Rorer, Inc., 500 Virginia Drive, Fort Washington, PA 19034.

MC 135797 (Sub 5-8TA), filed February 27, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esquire, Post Office Box 130, Lowell, Arkansas 72745. (1) *Containers.* (2) *Material, equipment and supplies* used in the manufacturing and distribution of the commodities named in (1) above, between the facilities of Chattanooga Glass Co. at Corsicana, TX on the one hand, and on the other, points in AR, IA, IL, IN, KS, LA, MO, MS, OH, OK and TN for 180 days. Supporting shipper: Chattanooga Glass Co.

MC 29910 (Sub-5–2TA), filed February 27, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as above). *Common carrier,* regular routes, 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 requiring special equipment), between Las Cruces, NM and El Paso, TX, serving all intermediate points, and serving the off-route points of Dona Ana, NM, points within five miles of the specified regular route, and those within five miles of the termini: From Las Cruces over NM Hwy 478 to Anthony, NM, then over U.S. Hwy 80 to El Paso, and return over the same route. The sole purpose of this application is to substitute single-line for joint-line operations in which applicant has been participating.

MC 29910 (Sub-No. 5–1–TA), filed February 27, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as above). *Common carrier,* regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment and commodities in bulk), Serving the facilities of Digital Equipment Corporation at or near Nashua and Salem, NH as off-route points in connection with carrier's regular route authority between Boston and Lowell, MA. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Digital Equipment Corporation, 444 Whitney Street, Northboro, MA 01532.

MC 143681 (Sub-5–2–TA), filed February 27, 1980. Applicant: S & S CONTRACT CARRIERS, INC., P.O. Box 497, Royse City, TX 75089. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract carrier,* irregular routes, transporting: (1) *Lighting fixtures,* and (2) *glassware, parts and materials* used in the manufacture and distribution of lighting fixtures, (1) from Philadelphia, PA, Linden, NJ, and Cowpens, SC to Grand Prairie, TX, and (2) from Decatur, TX to Cowpens, SC, under continuing contract(s) with Progress Lighting Div., Kidde Consumer Durables Corp., Philadelphia, PA, for 180 days. Underlying ETA seeks 90 day authority. Supporting shipper: Progress Lighting Div., Kidde Consumer Durables Corp., G & Erie Ave., Philadelphia, PA 19134.

MC 149169 (Sub-5–1–TA), filed February 25, 1980. Applicant: INTERCOASTAL CONTAINER SERVICE CORP., 2003 Macarthur Drive, P.O. Box 1770, Orange, TX 77630. Representative: John P. Jones III, 715 Church Street, Beaumont, TX 77705. Transporting: *General commodities in trailers,* between the Beaumont, TX commercial zone and the Houston, TX commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Missouri-Kansas-Texas Railroad Co., 2625 Leroy St., Houston, TX 77007.

MC 138748 (Sub-5–1–TA), filed February 5, 1980. Applicant: DODDS REALTY CO. d.b.a. DODDS SERVICE CO., 40 Terminal Street, Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Contract carrier,* irregular routes: *twine,* from Milwaukee, WI, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, MT, ME, ND, OH, SD, TN, and WI under continuing contract with Dubuque Twine Co., Dubuque, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dubuque Twine Co., Jones & Terminal Streets, Dubuque, IA 52001.

MC 107496 (Sub-5–1–TA), filed February 22, 1980. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check (same as above). Transporting: *Fuel oil,* in bulk, in tank vehicles, from St. Joseph, MI to E. Chicago, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Enterprise Oil & Gas Co., 14445 Lynwood Ave. Detroit, MI 48238.

MC 150142 (Sub-5–1–TA), filed February 21, 1980. Applicant: LARRY D. and PATRICIA CHICK TRUCKING (a partnership), 1319 San Miguel, Springdale, AR 72764. Representative:

Michael H. Mashburn, Blair, Cypert, Waters & Roy, 111 Holcomb Street, P.O. Box 869, Springdale, AR 72764. *Contract carrier,* irregular routes, *foodstuffs,* between St. Louis, MO, on the one hand and on the other points within the states of AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI and WY, restricted to operations performed pursuant to a continuing contract or contracts with Consolidated Flavor Corporation and restricted against contract carrier operations from St. Louis, MO, to Orlando, FL; Los Angeles, CA; Minneapolis-St. Paul, MN; West Allis, WI; and Fargo, ND, for 180 days. An underlying ETA seeks 90 days' authority. Supporting shipper: Consolidated Flavor Corporation, 264 Boulder Industrial Drive, Bridgeton, MO 63044.

MC 141312 (Sub-5–1–TA) (Region No. 5), filed February 25, 1980. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, NE 68463. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier,* irregular routes, transporting: *Dry fertilizer,* from Omaha, NE, to points in IA, KS, MO, and SD, under a continuing contract(s) with the Agricultural Chemicals Division of Kaiser Aluminum & Chemical Sales, Inc. of Savannah, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Aluminum & Chemical Sales, Inc., Agricultural Chemicals Division, P.O. Box 65697, West Des Moines, IA 50265.

MC 121517 (Sub-5–1–TA), filed February 25, 1980. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: WILBURN L. WILLIAMSON, suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting: *Barite,* in bulk, in tank vehicles, from points in Hot Springs County, AR and Washington County, MO to points in KS, LA, OK and TX for 180 days. Supporting shipper(s): Milchem Incorporated, a Division of Baker International, P.O. Box 22111, 3920 Essex Lane, Houston, TX 77027, and N. L. Baroid/N. L. Industries, Inc., P.O. Box 1675, Houston, TX 77001.

MC 136786 (Sub-5–5–TA), filed February 25, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 Northeast Third Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, suite 411, Edina, MN 55435. (1) *Malt beverages and related advertising materials,* from Jefferson County, CO to points in AR, ID, MT, TX and WA; and (2) *empty beverage containers and materials and supplies* used in or dealt with by breweries from points in AR, ID, MT, TX and WA to Jefferson County, CO, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 141312 (Sub-5–2–TA), (Region No. 5), filed February 25, 1980. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, NE 68463. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier,* irregular routes, transporting: *Phosphatic solution,* in bulk, in tank vehicles, from the facilities of Texasgulf Inc. at or near Weeping Water, NE, to points in IL, IA, KS, MN, MO, ND and SD, under a continuing contract(s) with Texasgulf Inc. of Raleigh, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texasgulf Inc., 4509 Creedmoor Road, Raleigh, NC 27622.

MC 141443 (Sub-5–4–TA), filed February 25, 1980. 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: (1) *Malt beverages and related adverstising materials,* from points in Jefferson County, CO to points in AR; (2) *empty used beverage containers and materials and supplies* used in and dealt with by breweries, from points in AR to Jefferson County, CO. Supporting shipper(s): Adolph Coors Company, Golden, CO 80401.

Note.—Dual operations may be involved.

MC 146336 (Sub-5–1–TA), filed February 22, 1980. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th Street, Grand Prairie, TX 75050. Representative: D. Paul Stafford, Winkle, Wells & Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting: *disposable surgical supplies, and pieced or finished paper or non-woven fabric used in the manufacture of disposable supplies,* (1) from Nashville, TN, and its commercial zone to Atlanta, GA, (2) from Gainesville, GA, to Waco, Laredo, and El Paso, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Surgikos, 2500 Arbrook Drive, Arlington, TX, 76012.

MC 146898 (Sub-5–1–TA), filed February 21, 1980. Applicant: MICKS SERVICE INC., 2146 Camanche Avenue, P.O. Box 838, Clinton, IA 52732. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Contract carrier,* irregular routes, transporting *paper and paper products,* from the facilities of International Paper Co., at or near Clinton, IA, to points in IL, IN, MN, MO, OH, and WI, for 180 days, under continuing contracts with International Paper Co., New York, NY. An underlying ETA seeks 90 days authority. Supporting shipper: International Paper Company, 220 E. 42nd Street, New York, NY 10017.

MC 138328 (Sub-5–1–TA), filed February 8, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, Registered Practitioner, P.O. Box 37205, Omaha, NE 68137. Such commodities as are dealt in by retail and discount stores (except household goods, foodstuffs, commodities in bulk, or those which by reason of size or weight require the use of special equipment) from Los Angeles, CA and Seattle, WA (and points in their commercial zones) to Dodge City and Salina, KS.

MC 138748 (Sub-5–2–TA), filed February 5, 1980. Applicant: DODDS REALTY CO., d.b.a. DODDS SERVICE CO., 40 Terminal Street, Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Contract motor carrier,* over irregular routes, transporting: *Twine,* from Duluth, MN and points in the Duluth, MN, commercial zone to points in CO, IA, KS, MN, MO, MT, ND, SD, WI and WY, under continuing contracts with the Dubuque Twine Company, Dubuque, IA 52001, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dubuque Twine Co., Jones & Terminal Streets, Dubuque, IA 52001.

MC 141115 (Sub-5–1–TA), filed February 14, 1980. Applicant: RONALD D. JERNIGAN, RONNIE JERNIGAN TRUCKING, Route 5, Box 35, Minden, LA 71055. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. (1) *Batteries, battery parts, block and reverb lead and reverb slag* (except liquid commodities in bulk), and (2) *Electric storage batteries and parts,* and (3) *Spent batteries,* (1) Between the facilities of General Battery Corporation, its subsidiaries and divisions at Dallas, TX, and Heflin, LA. (2) From Lancaster, TX to Heflin, LA. (3) From rail sidings at Shreveport and Minden, LA to Heflin, LA, 180 days. Applicant has also fined an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Battery Corporation, its subsidiaries and divisions at Dallas, TX.

MC 119493 (Sub-5–3TA), filed February 15, 1980. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manager, P.O. Box 1196, Joplin, Missouri 64801. *Lignite coal* in packages, from: Omaha, NE. To: Military, KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Gulf Oil Corporation, P.O. Box 3706, Houston, TX 77001.

MC 119789 (Sub-5–4TA), filed February 13, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *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 Carriers Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from Franklinton, LA to New York City, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Parish Packing Co., Inc.; P.O. Box 400, Franklinton, LA 70438.

MC 102567 (Sub-5–2TA), filed February 21, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Freeway, suite 130, Houston, TX 77040. *Petroleum Products, in bulk, in tank vehicles,* from Lake Charles, LA, to Waskom, Palestine, Lufkin, Silsbee, and Deer Park, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Morgan Petroleum Company, P.O. Box 8486, Shreveport, LA 71108.

MC 139495 (Sub-5–2TA) (Sub-465), filed February 19, 1980. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, Kansas 67901. Representative: Herbert Alan Dubin, Baskin & Sears, 1320 Fenwick Lane, Silver Spring, MD 20910. *Coffee and coffee products* from the facilities of the Proctor & Gamble Distributing Company and Folger Coffee Company at or near Sherman, TX, to points in CA, OR and AZ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Proctor & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201.

MC 142508 (Sub-5–7–TA), filed February 19, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, Nebraska 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, Nebraska 68137. *Frozen Foods,* from the facilities of General American Foods in Van Nuys, CA to Mobile, AL; Jacksonville, Miami, and Orlando, FL; Atlanta, GA; Lafayette, LA; Charlotte, NC; and Dallas and Houston, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: General American Foods, 14657 Lull Street, Van Nuys, CA 91405.

MC 142508 (Sub-5–6–TA), filed February 19, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, Nebraska 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, Nebraska 68137. *Meat, Meat Products, and Meat By-Products,* from Jersey City, Newark, Elizabeth and Secaucus, NJ; New York City, NY; and Fogelsville, PA, to Miami, Jacksonville, and Tampa, FL; Charleston, SC; and Savannah, GA for 180 days. Restricted to traffic having a prior or subsequent movement by water. An underlying ETA seeks 90 days authority. Supporting shipper: A. J. Cunningham Packing Corporation, 1776 Heritage Drive, Quincy, MA 02171.

MC 142508 (Sub-5–5–TA), filed February 19, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, Nebraska 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, Nebraska 68137. (1) *Paper and paper products and equipment, materials and supplies* used in the manufacture of paper products, between the facilities of National Envelope Corporation in Worcester, MA and Kansas City, KS, and the facilities of New York Envelope Corporation in New York, NY; and (2) *Paper* from Jay, ME; Canton, NC; Berlin, NH; Ticonderoga, NY; Hamilton, OH; Pasadena, TX; Franklin, VA; and Rothschild, WI to the facilities of National Envelope Corporation in Kansas City, KS; and (3) *Paper and paper products* from the facilities of National Envelope Corporation in Kansas City, KS to Rockville, MD for 180 days. An underlying ETA seeks 90 days authority. Supporing shipper: National Envelope Corporation, 11 Lincoln Street, Kansas City, KS.

MC 149200 (Sub-5–2–TA), filed February 25, 1980. Applicant: CHANSHEL, INC., P.O. Box 928, Cushing, OK 74023. Representative: Charles D. Midkiff, P.O. Box 928, Cushing, OK 74023. *Bentonite clay and lignite coal,* except in bulk, from the facilities of Ameican Colloid Co., located at or near Malta, MT, Gascoyne, ND, Belle Fourche, SD, Lovell and Upton, WY; to points in KS, OK and TX. An underlying ETA seeks 90 days authority. Supporting shippers: Eagle Mud, Inc., 880 City Center Bldg., Okla City, Okla 73102 and American Colloid Co., P.O. Box 228, Skokie, Ill 60677.

MC 118959 (Sub-5–1–TA), filed February 19, 1980. Applicant: JERRY LIPPIS, INC., 130 South Frederick, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Tires and Tubes,* Between Baltimore, MD, on the one hand, and, on the other, AL, AR, AZ, CO, FL, LA, MI, MO, MS, OH, TX, and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Universal Tire Marketing Corporation, 14622 South-Lawn Lane, Rockville, MD 20850.

MC 150087 (Sub-5–2–TA), filed February 15, 1980. Applicant: LARRY LA PRADE TRUCKING, INC., P.O. Box 388, Grand Saline, TX 75140. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Sand, gravel, crushed stone, aggregate, iron ore, slag, rock and rip-rap* in bulk in dump vehicles, from points in the Counties of McCurtain, Choctaw, Atoka, Bryan, Coal, and Johnston, OK, to points in TX on and east and north of a line running along U.S. Hwy 81 from the TX–OK border to its intersection with U.S. Hwy 190 and thence along that highway to the TX–LA border. Supporting shippers: United Contractors, P.O. Box 893, Kilgore, TX 75662; Big J Construction Co., P.O. Box 324, Carthage, TX 75633; Jackson Bros. Concrete, P.O. Box 956, Wylie, TX 75098; Lee Ray Contractors, Inc., 629 W. Broadway, Winnsboro, TX 75494; and J. W. Smith & Sons Contractors, Inc., P.O. Box 67, Beckville, TX 75631.

MC 142508 (Sub-5–8–TA), filed February 21, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Auto parts, loose and in boxes, and such commodities sold by automotive parts stores,* between the facilities of Standard Motor Products, Inc., New York, NY; Edwardsville, KS; and Montgomery, AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Standard Motor Products, Inc., 380 Southern Boulevard, Bronx, NY.

MC 35320 (Sub-5–4–TA), filed February 25, 1980. Applicant: TIME-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). *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 Chase Metal Service, at or near Denver,

CO, on the one hand, and, on the other, Roswell, NM. Supporting shipper: Chase Metal Service, Denver, CO.

MC 118089 (Sub-5–1TA), filed February 25, 1980. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, Texas 79408. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203, (303) 839–5856. 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 the facilities of Freezer Services, Inc. at or near Amarillo, TX, to points in AZ, CA, LA, MS, NC, SC and TX. An underlying ETA seeks 90 days authority.

MC 107496 (Sub-5–2TA), filed February 20, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check (same as above). Transporting *lubricating motor oil, in bulk, in tank vehicles,* from Kansas City, Missouri to points in Indiana and Michigan for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Rutledge Oil Co., 951 N. Topping, Kansas City, Missouri 64120.

MC 144622 (Sub-5–4TA) (republication), filed February 5, 1980. Applicant: GLENN BROS. TRUCKING, INC., Post Office Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. Authority sought to operate as a *common carrier,* by motor vehicles over irregular routes, transporting *(a) household appliances, and (b) parts and accessories for household appliances* between the facilities of the General Electric Co. at Little Rock, AR, on the one hand, and the facilities of the General Electric Co. in Louisville, KY, Chicago, IL, Milwaukee, WI, Columbia, MD, Columbia, TN, Decatur, AL, and Bloomington, IN, on the other. Also from the facilities of the General Electric Co. at Little Rock, AR, to all points in the states of LA, MS, OK, and TX, over irregular routes.

MC 148943 (Sub-5–1TA), (republication), filed February 27, 1980. Applicant: TEJAS OESTE TRUCK LINES INC., 2209 Mills St., El Paso, Texas 79901. Representative: Greg J. Evans, Vice President, Tejas Oeste Truck Lines Inc., 2209 Mills St., El Paso, Texas 79901. *Common carrier,* regular routes, in the transportation of general commodities, freight of all kinds, other than bulk liquid commodities in tank vehicles, or bulk commodities requiring special equipment or commodities which either due to size, weight, or value that would require special equipment. (1) Between El Paso, TX and Artesia, NM serving all intermediate points and commercial zones. From El Paso, TX over Hwys U.S. 62 and 180 to Carlsbad, NM. Thence over Hwy U.S. 285 to Artesia, NM and return over the same routes. (2) Between Artesia, NM and Roswell, NM, serving all intermediate points and commercial zones. From Artesia, NM over Hwy U.S. 285 or Alternate Hwy U.S. 285 to Roswell, NM and return. (3) Between Roswell, NM and Tatum, NM, serving all intermediate points and commercial zones. From Roswell, NM, over Hwy U.S. 380 to Tatum, NM and return. (4) Between Roswell, NM and Clovis, NM, serving all intermediate points and commercial zones. Plus Cannon Air Force Base as an off route point. From Roswell, NM, over Hwy U.S. 70 to Clovis, NM, and return. (5) Between Artesia, NM, and Lovington, NM, serving all intermediate points and commercial zones. From Artesia, NM, over Hwy U.S. 82 to Lovington, NM, and return. (6) Between Clovis, NM, and Lovington, NM, serving all intermediate points and commercial zones. From Clovis, NM, to Portalis, NM, via Hwy U.S. 70 to Lovington NM, via Hwy 18 and return. Applicant wishes to tack to its own authority at Lovington, NM and Carlsbad NM, and will interline with other carriers at Roswell, NM and Clovis, NM. Supporting shippers: 14 supporting shippers.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Establishment of Nine Special Temporary Authority Boards

AGENCY: Interstate Commerce Commission.

ACTION: Establishment of nine (9) Special Temporary Authorities Boards.

SUMMARY: On March 10, 1980, the Interstate Commerce Commission voted to establish nine Special Temporary Authorities Boards for a period not to exceed 60 days. These Boards have been delegated the functions set forth at 49 CFR 1011.6(b)(1) and will have concurrent jurisdiction with the Commission's Motor Carrier Board to decide applications for motor and water carrier temporary authority under 49 USC 10928. The purpose of this delegation is to eliminate the backlog of temporary authority applications ready for decision as of February 3, 1980. Applications filed on or after February 4, 1980, and any filed prior to that time in which the field staff had not yet completed the record, are covered by the rules in Ex Parte No. MC–67 (Sub-No. 5), *Temporary Authority Application Procedures* (45 Fed. Reg. 3580, January 18, 1980) and are not subject to the jurisdiction of the Special Temporary Authorities Boards.

EFFECTIVE DATE: March 10, 1980.

COMMENTS: Since this is a notice of final action taken to revise internal organization matters, comments are not invited.

FOR FURTHER INFORMATION CONTACT: For information on *specific* pending applications or *general information* concerning temporary authority application procedures: Denise Ryan (202) 275–7792.

For a list of Board Members: Office of Communications (202) 275–7252.

For general information on the Special Temporary Authorities Boards: Paul Grossman (202) 275–7911 or Donald J. Shaw, Jr. (202) 275–7292.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-8393 Filed 3-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; Rule 19; Eighty-first Revised Exemption 90]

Aberdeen and Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

To all railroads;

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in my by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–D, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company.
Reporting Marks: AR

The Ahnapee & Western Railway Company, Reporting Marks: AHW
Ann Arbor Railroad System.
Michigan Interstate Railway Company, Operator, Reporting Marks: AA
Apalachicola Northern Railroad Company, Reporting Marks: AN
The Arcata and Mad River Railroad Company, Reporting Marks: AMR
The Atchison, Topeka and Santa Fe Railway Company, Reporting Marks: ATSF
Atlanta & Saint Andrews Bay Railway Company, Reporting Marks: ASAB
Bath and Hammonsport Railroad Company, Reporting Marks: BH
Berlin Mills Railway, Inc., Reporting Marks: BMS
Burlington Northern Inc., Reporting Marks: BN–CBQ–GN–NP–SPS
Cadiz Railroad Company, Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company, Reporting Marks: CPLT
Central Vermont Railway, Inc., Reporting Marks: CV
Chesapeake Western Railway, Reporting Marks: CHW
City of Prineville, Reporting Marks: COP
The Clarendon and Pittsford Railroad Company, Reporting Marks: CLP
Columbus and Greenville Railway Company, Reporting Marks: CAGY
Delaware and Hudson Railway Company, Reporting Marks: DH
Delta Valley & Southern Railway Company, Reporting Marks: DVS
*Detroit and Mackinac Railway Company, Reporting Marks: D&M–DM
Detroit, Toledo and Ironton Railroad Company, Reporting Marks: DT&I–DTI
Duluth, Missabe and Iron Range Railway Company, Reporting Marks: DMIR
East Camden & Highland Railroad Company, Reporting Marks: EACH
East St. Louis Junction Railroad Company, Reporting Marks: ESLJ
Galveston Wharves, Reporting Marks: GWF
Genessee and Wyoming Railway Company, Reporting Marks: GNWR
Green Bay and Western Railway Company, Reporting Marks: GBW
Green Mountain Railroad Corporation, Reporting Marks: GMRC
Greenville and Northern Railway Company, Reporting Marks: GRN
The Hutchinson and Northern Railway Company, Reporting Marks: HN
Helena Southwestern Railroad Company, Reporting Marks: HSW
Illinois Terminal Railroad Company, Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc., d.b.a. The Hoosier Connection, Reporting Marks: HOSC
Lake Erie, Franklin & Clarion Railroad Company, Reporting Marks: LEF
Lake Superior & Ishpeming Railroad Company, Reporting Marks: LSI
Lamoille Valley Railroad Company, Reporting Marks: LVRC
Lancaster and Chester Railway Company, Reporting Marks: LC
Lenawee County Railroad Company, Inc., Reporting Marks: LCRC
Longview, Portland & Northern Railway Company, Reporting Marks: LPN
Louisiana Midland Railway Company, Reporting Marks: LOAM
Louisville and Wadley Railway Company, Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company, Reporting Marks: LNAC
Manufacturers Railway Company, Reporting Marks: MRS
Maryland and Delaware Railroad Company, Reporting Marks: MDDE
McCloud River Railroad Company, Reporting Marks: MR
Middletown and New Jersey Railway Company, Inc., Reporting Marks: MNJ
Mississippian Railway, Reporting Marks: MISS
Missouri-Kansas-Texas Railroad Company, Reporting Marks: MKT–BKTY
New Hope and Ivyland Railroad Company, Reporting Marks: NHIR
New Jersey, Indiana & Illinois Railroad Company, Reporting Marks: NJII
New Orleans Public Belt Railroad, Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company, Reporting Marks: NYSW
Norfolk and Western Railway Company, Reporting Marks: ACY–N&W–NKP–WAB
Norfolk, Franklin and Danville Railway Company, Reporting Marks: NFD
North Louisiana & Gulf Railroad Company, Reporting Marks: NL&G
Octararo Railway, Inc., Reporting Marks: OCTR
Pearl River Valley Railroad Company, Reporting Marks: PRV
Peninsula Terminal Company, Reporting Marks: PT
Pittsburgh, Allegheny & McKees Rocks Railroad Company, Reporting Marks: PA&M
Port Huron and Detroit Railroad Company, Reporting Marks: PHD
Port of Tillamook Bay Railroad, Reporting Marks: POTB
Prairie Trunk Railway, Reporting Marks: PARY
Raritan River Rail Road Company, Reporting Marks: RR
St. Lawrence Railroad, Reporting Marks: NSL
St. Louis Southwestern Railway Company, Reporting Marks: SSW
St. Marys Railroad Company, Reporting Marks: SM
Sandersville Railroad Company, Reporting Marks: SAN
Savannah State Docks Railroad Company, Reporting Marks: SSDK
Sierra Railroad Company, Reporting Marks: SERA
Southern Pacific Transportation Company, Reporting Marks: SP
Southern Railway Company, Reporting Marks: CG–NS–SA–SOU
Terminal Railway, Alabama State Docks, Reporting Marks: TASD
The Texas Mexican Railway Company, Reporting Marks: TM
Toledo, Peoria & Western Railroad Company, Reporting Marks: TPW
Union Railroad of Oregon, Reporting Marks: UO
Upper Merion and Plymouth Railroad Company, Reporting Marks: UMP
Vermont Railway, Inc., Reporting Marks: VTR
The Virginia and Maryland Railroad Company, Reporting Marks: VAMD
Virginia Central Railway, Reporting Marks: VC
Warwick Railway Company, Reporting Marks: WRWK
Wabash Valley Railroad Company, Reporting Marks: WVRC
WCTU Railway Company, Reporting Marks: WCTR
Youngstown & Southern Railway Company, Reporting Marks: YS
Yreka Western Railroad Company, Reporting Marks: YW

Effective March 1, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 27, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80–8391 Filed 3–18–80; 8:45 am]

BILLING CODE 7035–01–M

Long- and Short-Haul Application for Relief, Formerly Fourth Section Application

March 13, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before April 3, 1980.

No. 43807, Southwestern Freight Bureau, Agent, No. B–50, on various commodities, including iron and steel articles, from stations in Eastern, Illinois, Southern, Southwestern and Western Territories to Korf, TX. Rates and provisions are published in Supplement 464 to Tariff ICC SWFB 3002–H and Supplement 476 to Tariff ICC SWFB 4850 of Southwestern Freight Bureau, Agent, effective April 13, 1980. Grounds for relief—market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–8392 Filed 3–18–80; 8:45 am]

BILLING CODE 7035–01–M

Long-and-Short-Haul Application for Relief, Formerly Fourth Section Application

March 14, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before April 3, 1980.

No. 43808, Southwestern Freight Bureau, Agent No. B–55, on (a) Butadiene from Baton Rouge, Norco, LA and Houston, TX to Tildale, GA, and (b) Ethylene Glycol from Geismar, LA to Forster, SC published in Supplement 41 to Southwestern Freight Bureau, Agent

Tariff ICC SWFB 4615, effective April 9, 1980. Grounds for relief—origin rate relationships.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-8393 Filed 3-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Application No. MC-1491]

National Motor Freight Traffic Association, Inc.; Released Rates Application

ACTION: Released Rates Application No. MC-1491.

SUMMARY: The National Motor Freight Traffic Association, Inc., Agent, on behalf of carriers named as participants in its National Motor Freight Classification, ICC NMF-100-F seeks to further amend Released Rates Order No. MC-525 (corrected) for the purpose of expanding this authority to provide for the application of classes and/or exception ratings in tariffs which publish exceptions to such classifications, and specific and/or general commodity rates, including commodity column rates on flatware, dresserware, or holloware, of sterling silver or with sterling silver parts.

ADDRESS: Anyone seeking copies of this application should contact Mr. William W. Pugh, Counsel, National Motor Freight Traffic Association, Inc., Agent, 1616 P Street, NW., Washington, DC 20036, Telephone No. (202) 797-5310.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Rooney, Unit Supervisor, Informal Rate Cases Branch, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Telephone No. (202) 275-7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730 and 11707 of the Interstate Commerce Act for and on behalf of carriers named as participants in the National Motor Freight Classification ICC NMF-100-F.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-8390 Filed 3-18-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meetings of the Regional Work Groups (RWGs), Joint Committee for Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD). These meetings will be held on April 14, 1980.

The purpose of the meetings is to: Analyze the RWG members' trip reports on Country/Mission visits; discuss plans for FY-83 Country Development Strategy Statements (CDSS's); update the Country Programs; and discuss the revision of the JCAD guidelines.

The Asia RWG will meet on April 14, 1980, and will convene at 9:30 a.m. in Room 216, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia. (Mr. David Lundberg, A.I.D. Federal Designee for this meeting can be contacted at (703) 235-8870.)

The Latin America RWG will meet on April 14, 1980, and will convene at 9:30 a.m. in Room 2242 New State Department Building. (Mr. Blair Allen, A.I.D. Federal Designee for this meeting can be contacted at (202)632-8126).

The Near East and the Africa RWG's will not meet the month of April.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits. Dr. Frank H. Madden is designated A.I.D. Advisory Committee Representative for JCAD. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (202)632-3009.

Dated: March 13, 1980.

Frank H. Madden,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 80-8279 Filed 3-18-80; 8:45 am]

BILLING CODE 4710-02-M

Agency for International Development

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Sections 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the thirty-first meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on April 8 and 9, 1980.

The purpose of the meeting is to: discuss energy issues as they affect agricultural development and food production in developing countries; review the research program on small scale energy alternatives being conducted at the University of Florida; consider research needs for agriculture of developing countries as related to the impact, costs and availability of petroleum derived energy and petroleum products used for improved agricultural production (chemical fertilizers, pesticides, etc.); and other research needs related to the energy issues for increasing production and improving consumption of food in LDC's.

The meeting will convene at 8:00 a.m. and adjourn at 5:00 p.m. on April 8 and 9, 1980. The meeting will be held at Rm. 1031 McCarty Hall, University of Florida, Gainesville, Florida 32611. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Mr. William F. Johnson, BIFAD Support Staff is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, State Department, Washington, D.C. 20523, or telephone him at (202) 632-7935.

Dated: March 13, 1980.

William F. Johnson,

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 80-8278 Filed 3-18-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-80; Order No. 1]

Certain Plastic Bouquet Holders

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: March 11, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 80-8275 Filed 3-18-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-10 (Final)]

Ferroalloys from Brazil; Termination of Investigation and Cancellation of Hearing

AGENCY: U.S. International Trade Commission.

ACTION: In view of the withdrawal by the petitioners of the petition upon the basis of which investigation No. 701-TA-10 was initiated, the Commission hereby terminates such investigation pursuant to section 704(a) of the Trade Act of 1930.

EFFECTIVE DATE: March 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Leahy, Office of Investigations, telephone number (202) 523-1369.

SUPPLEMENTARY INFORMATION: By notice issued January 10, 1980, and published in the **Federal Register** (45 FR 3400 (January 17, 1980)), the Commission instituted the subject investigation to determine whether with respect to the articles involved an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the subsidized imported merchandise. A public hearing was scheduled, on a tentative basis, to be held at the International Trade Commission Building, on April 8, 1980.

The legal authority for a request to withdraw a petition for a countervailing duty investigation and the legal authority for the Commission to terminate an investigation in response to a request to withdraw the petition are found in section 704 of the Tariff Act of 1930. The only restriction on the Commission's authority to terminate is that all parties to the investigation must be notified of the termination. In the instant case no requests for appearances before the Commission have been received. For these reasons the Commission is granting the request and terminating this investigation. In addition to notifying interested persons who have not appeared before the agency, the Commission is notifying the Department of Commerce of its action in this case.

By order of the Commission.

Issued: March 14, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-8396 Filed 3-18-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-8 (Final)]

Firearms From Brazil; Termination of Investigation and Cancellation of Hearing

AGENCY: U.S. International Trade Commission.

ACTION: In view of the withdrawal by both petitioners of the petition upon which investigation No. 701-TA-8 was instituted, the Commission hereby terminates such investigation pursuant to section 704(a) of the Trade Act of 1930.

EFFECTIVE DATE: March 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Cates, Office of Investigations, telephone number (202) 523-0368.

SUPPLEMENTARY INFORMATION: By notice issued January 10, 1980, and published in the **Federal Register** (45 FR 3400, January 17, 1980), the Commission instituted the subject investigation to determine whether with respect to the articles involved an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the subsidized imported merchandise. A public hearing was scheduled, on a tentative basis, to be held at the International Trade Commission Building, on April 5, 1980.

Section 704(a) of the Tariff Act of 1930 permits the termination of a countervailing duty investigation after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. Pursuant to section 704(a) of the Act, however, the Commission may not terminate an investigation before a preliminary determination is made by the Department of Commerce under section 703(b) of the Act. In the present investigation, the administering authority (at that time the Department of the Treasury) made an affirmative preliminary determination—(44 FR 53597, September 14, 1979)—and both petitioners have withdrawn the petition on which the present investigation was instituted.

The requirements of section 704(a) having been satisfied, the Commission grants the request to terminate the investigation. In addition to this notice, the Commission is notifying the Department of Commerce and both petitioners of this action.

By order of the Commission.

Issued: March 14, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-8397 Filed 3-18-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Countryside Farms, Inc., Egg Products Co., Olson Farms, Inc., and Snow White Egg Co.; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Utah in *United States* v. *Countryside Farms, Inc., et al.*, Civil Action No. C-75-301. Consenting to the proposed Judgment are three of the four defendants in the case, Countryside Farms, Inc., Egg Products Company, and Snow White Egg Company. The fourth defendant, Olson Farms, Inc., has not consented and intends to proceed to trial. The Complaint in this action alleged that defendants conspired to fix wholesale market quotations on which the wholesale prices of fresh eggs were based and to fix the producer paying prices for fresh eggs. The proposed Judgment would enjoin the consenting defendants from agreeing to fix or stabilize the prices at which eggs are bought or sold, from allocating accounts or territories, and from communicating about prices except in the course of bona fide purchase and sale transactions or to agencies and organizations that disseminate aggregate price statistics. The Competitive Impact Statement describes the anticipated effects of the proposed Judgment on competition and evaluates alternatives to the proposed Judgment which were actually considered by the United States. Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Dated: March 7, 1980.

Joseph H. Widmar,

Director of Operations.

Counsel submitting: Gary R. Spratling, Irene Saal Holmes.

Attorneys for: Plaintiff.

Address: U.S. Department of Justice, Antitrust Division, 450 Golden Gate Avenue, P.O. Box 36046, San Francisco, California 94102, Telephone: (415) 556–6300.

In the United States District Court for the District of Utah, Central Division, *United States of America, Plaintiff,* v. *Countryside Farms, Inc.; Egg Products Company; Olson Farms, Inc.; and Snow White Egg Company,* Defendants. Civil No. C–75–301, Stipulation, Filed: March 7, 1980.

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendants Countryside Farms, Inc., Egg Products Company, and Snow White Egg Company, by their respective attorneys, that:

1. The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) and without further notice to any party or other proceedings: *Provided,* That plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

For the Plaintiff:

Sanford M. Litvack,

Special Assistant to the Attorney General.

Joseph H. Widmar,

Charles F. B. McAleer,

Anthony E. Desmond

Gary R. Spratling,

Irene Saal Holmes,

Attorneys, Department of Justice.

For the Defendants:

Richardo B. Ferrari, Esq.,

Salt Lake City, Utah, Attorney for Countryside Farms, Inc.

Watkiss & Campbell,

Salt Lake City, Utah,

Clark W. Sessions,

Attorneys for Egg Products Company.

Richards, Brandt, Miller, Nelson & Zarr,

Salt Lake City, Utah,

Robert W. Brandt,

Attorneys for Snow White Egg Company.

Counsel submitting: Gary R. Spratling, Irene Saal Holmes.

Attorneys for: Plaintiff.

Address: U.S. Department of Justice, Antitrust Division, 450 Golden Gate Avenue, P.O. Box 36046, San Francisco, California 94102, Telephone: (415) 556–6300.

United States District Court for the District of Utah, Central Division, *United States of America,* Plaintiff, v. *Countryside Farms, Inc.; Egg Products Company; Olson Farms, Inc.; and Snow White Egg Company,* Defendants. Civil No. 75–301, Final Judgment, Filed: March 7, 1980.

Plaintiff, United States of America, having filed its complaint herein on July 28, 1975, and plaintiff and defendants Countryside Farms, Inc., Egg Products Company, and Snow White Egg Company, by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issues of fact or law herein, and without this Final Judgment constituting evidence against or an admission by any party hereto with respect to any such issues;

Now, therefore, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter hereof and each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendants under Section 1 of The Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment: (A) "Person" means any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "Salt Lake City Market" means the area encompassing the State or Utah, eastern Nevada, southeastern Idaho and southwestern Wyoming.

III

The provisions of this Final Judgment apply to each of the consenting defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them, who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each consenting defendant is enjoined and restrained from entering into, adhering to, maintaining, furthering, enforcing or claiming any right under any contract, agreement, understanding, plan or program with any person, directly or indirectly to:

(A) Fix, determine, establish, maintain, raise, stabilize, or adhere to prices, quotations, discounts, or other terms or conditions for the purchase of eggs from or sale to any third person;

(B) Communicate to or exchange with any other person purchasing or selling eggs any information concerning any actual or proposed price, quotation, price change, discount, delivery or processing charge, or other term or condition of sale at which eggs are to be, or have been, purchased from or sold to any third person;

(C) Allocate with any other person or persons purchasing or selling eggs in the Salt Lake City Market the areas from or in which, or accounts from or to which, each such person should or will purchase or sell eggs.

V

Nothing in Section IV hereof shall prohibit the communication of necessary information, including prices and quotations, by a consenting defendant (1) to a purchaser or seller of eggs (whether a defendant or not) in the course of, and related to, negotiating for, entering into, or carrying out a bona fide purchase or sale transaction between such defendant and such other person; (2) to the United States Department of Agriculture, or its agents or employees; (3) to any State agency; or (4) to any private organization which collects said information and disseminates it to the public in a composite form without identifying information gathered from any particular source.

VI

Each consenting defendant is ordered and directed to: (A) Serve within sixty (60) days after the entry of this Final Judgment a copy of this Final Judgment upon each of its officers and directors and upon each of its employees and agents who have any responsibility for the purchase, sale or pricing of eggs;

(B) Serve a copy of this Final Judgment upon each successor to an officer, director, employee, or agent described in Paragraph (A) of this Section, within sixty (60) days after the succession occurs;

(C) Within ninety (90) days after the entry of this Final Judgment, file with the Court and serve upon the plaintiff affidavits concerning the fact and manner of compliance with Paragraph (A) of this Section; and

(D) Obtain, and retain in its files, from each officer, director, employee and agent served with a copy of this Final Judgment pursuant to Paragraph (A) or Paragraph (B) of this Section, a signed statement evidencing each such person's receipt of a copy of this Final Judgment.

VII

Each consenting defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of its total assets of its egg business, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment:

(1) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, servants or employees of the defendant, who may have counsel present, regarding any such matters.

(2) Any consenting defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to its principal office, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

(B) No information or documents obtained by the means provided in this Paragraph VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

X

This Final Judgment shall be in full force and effect for a period of ten (10) years from the date of entry.

XI

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

Counsel Submitting: Gary R. Spratling, Irene Saal Holmes

Attorneys for: Plaintiff.

Address: U.S. Department of Justice, Antitrust Division, 450 Golden Gate Avenue, box 36046, San Francisco, CA 94102, Telephone: (415) 556-6300.

In the United States District Court, District of Utah, Central Division, *United States of America*, Plaintiff, v. *Countryside Farms, Inc.; Egg Products Company; Olson Farms, Inc.; and Snow White Egg Company*, Defendants. Civil No. 75-301. Competitive Impact Statement. Filed: March 7, 1980.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), the United States hereby submits this Competitive Impact Statement relating to the proposed consent judgment with defendants Countryside Farms, Inc., Egg Products Company and Snow White Egg Company submitted for entry in this civil antitrust proceeding. Defendant Olson Farms, Inc., is not a party to the proposed judgment.

I. Nature of the Proceeding

On July 28, 1975 the United States filed a civil complaint under Section 4 of the Sherman Act (15 U.S.C. 4) alleging that the defendants violated Section 1 of the Sherman Act (15 U.S.C. 1). The complaint alleges that the defendants and various co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate commerce, the substantial terms of which were (1) to fix, maintain and stabilize the wholesale market quotations on which were based the wholesale prices at which defendants sold eggs in the Salt Lake City Market, and (2) to fix, maintain and stabilize the producer paying prices which defendants paid for eggs. The period of time covered by the complaint is from at least as early as 1966 until March 1974. The Salt Lake City Market is defined in the complaint to include the State of Utah plus, generally, eastern Nevada, southeastern Idaho, and southwestern Wyoming.

In a grand jury indictment also filed on July 28, 1975, *United States* v. *Countryside Farms, Inc., et al.*, Cr. 75-76 (D. Utah), these same four corporate defendants, as well as two individual defendants, were charged with a misdemeanor criminal violation of the Sherman Act on the basis of the same alleged conspiracy charged in this civil complaint. In the criminal case, defendants Countryside Farms, Inc., Egg Products Company, Olson Farms, Inc., Snow White Egg Company and R. Kent Christofferson entered pleas of *nolo contendere*. Defendants Olson Farms, Inc., was sentenced to a fine of $10,000 and the other defendants were sentenced to one-year terms of probation. One individual defendant, Gilbert T. Cochran, pleaded not guilty and was tried in February 1977. The trial resulted in a hung jury and the indictment against Cochran was dismissed by order of the court entered May 16, 1977. Olson Farms, Inc.'s fine has been paid and the criminal case is concluded.

In the civil case, entry by the court of the proposed consent judgment will terminate the action with respect to defendants Countryside Farms, Inc., Egg Products Company and Snow White Egg Company, except insofar as the court will retain jurisdiction over the matter for possible further proceedings which may be required to interpret, modify or enforce the judgment, or to punish violations of any of the provisions of the judgment.

The proposed consent decree does not include defendant Olson Farms, Inc. At this time, the government and defendant Olson Farms are unable to agree on a consent decree and the civil case will continue against Olson Farms. Trial is set for September 1980.

II. Description of Events Constituting the Alleged Violation

During the period of time covered by the complaint, the defendant egg dealers bought and sold fresh eggs in the Salt Lake City Market. The defendants and co-conspirator companies bought eggs from producers in the Salt Lake City Market and in California, and sold cartoned eggs to retailers in the Salt Lake City Market for resale to consumers. In 1973, the last full year of the alleged conspiracy, the four defendants, including Olson Farms, Inc., which is not a party to the proposed consent judgment, sold approximately twelve million dollars of fresh cartoned eggs in the Salt Lake City Market. Their sales accounted for an estimated 90 percent of all sales by egg dealers of fresh cartoned eggs to retailers in that Market.

The complaint in this civil action alleges a conspiracy that began in at least 1966 and continued until March 1974. The complaint alleges that the price fixing conspiracy was carried out by means of meetings attended by representatives of the four defendant companies at which wholesale market quotations, producer paying prices, terms of sale and market conditions were discussed and by means of telephone conversations during which wholesale market quotations were exchanged and producer paying prices, terms of sale, and market conditions were discussed. The complaint alleges further that in carrying out the alleged conspiracy the defendants quoted agreed-upon wholesale market quotations, paid agreed-upon producer paying prices, allocated territories for the sale of eggs, and acted to exclude competitors from selling eggs in Salt Lake and Utah Counties in the State of Utah.

The wholesale market quotation was a base price to which varying discounts were applied by the individual egg dealers to arrive at the actual selling price to different retail accounts. Discounts were a certain number of "cents off" (below) the wholesale market quotation. The complaint (like the indictment) does not charge the defendant egg dealers with fixing the discounts offered to various retailers. Rather, it charges the defendant egg dealers with collusion in setting each dealer's wholesale market quotation, which was the starting point from which the sale price to retailers was determined.

A Salt Lake City Market Quotation was published weekly by the United States Department of Agriculture (USDA) in the Dairy and Poultry Market News and was determined by the USDA by calling each dealer weekly for the quotation that dealer would use in selling eggs, and the price that dealer would pay in purchasing eggs, the following week. The Market Quotation, published after its effective date, listed the range of all wholesale market quotations and producer paying prices reported to the USDA by defendant egg dealers. At the criminal trial of the individual defendant, the government introduced evidence showing that the defendants quoted to the USDA identical wholesale market quotations and producer paying prices during most of the weeks between 1968 and 1972.

The specific evidence introduced in the criminal trial on the means by which the

conspiracy was carried out was as follows. Beginning in the 1950's egg dealers in Salt Lake City met for lunch monthly or bi-monthly to discuss wholesale market quotations, terms of sale—such as premium charges for half-case sales and allowances for the return of empty cartons—as well as general shortage and surplus egg supply conditions in the market. All defendant egg dealers were represented at these dealer luncheon meetings, as well as Ballard Egg Company, an egg dealer that was acquired by defendant Olson Farms in 1969.

These meetings ended in approximately 1967. At that time weekly evening meetings began among egg producers in the Salt Lake City area; these meetings were also regularly attended by representatives of defendants Countryside Farms and Olson Farms. The producer group prepared for its weekly meetings by sending its representative to each of the defendant egg dealers before the meeting and asking what each dealer thought the quotation should be the following week. This information was discussed at the meeting; the group arrived at a consensus quotation, which it communicated to the egg dealers and which those dealers generally followed. Each dealer cooperated with the producer group in the expectation of receiving in return a quotation that was a consensus of the opinions of all dealers, a quotation that each in turn would use. Thus the dealers fixed quotations and prices using the producer group meetings as a conduit.

These meetings ended in 1969. The government introduced evidence showing that the dealers, however, continued to cooperate and agree upon uniform quotations and prices using a different method: weekly inter-dealer telephone calls. The dealers exchanged telephone calls weekly to communicate to one another the wholesale market quotation and producer paying price that each would quote, both to the USDA and in business transactions, the following week. In addition, certain representatives of the defendant egg dealers met on an irregular basis to discuss specific pricing problems.

III. Explanation of the Proposed Consent Judgment

The United States and three of the four defendants, Countryside Farms, Inc., Egg Products Company and Snow White Egg Company, have stipulated that the proposed consent judgment, which is in a form negotiated by the above parties, may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment by the court is conditioned upon a determination by the court that the judgment is in the public interest.

A. Prohibited Conduct

The proposed judgment will be in effect for ten years. It will during that time prohibit each of the above three defendants from entering into or adhering to any agreements or arrangements with any person to fix, maintain or adhere to prices, quotations, discounts or any other terms or conditions under which it purchases eggs from third parties or sells eggs to third parties.

The judgment will also during its ten year term prohibit the above three defendants from entering into or adhering to any agreements or arrangements to communicate to or exchange with other egg dealers their prices, quotations, price changes, discounts or any other terms on which or conditions under which they purchase eggs or sell eggs to third parties. This prohibition will not, by the terms of the proposed judgment, prohibit the defendants from communicating to other egg dealers necessary information to carry out or negotiate for a bona fide purchase or sale transaction with the other egg dealer. Furthermore, it does not prohibit the defendants from communicating price and quotation information to the United States Department of Agriculture, to a State agency or to any private organization that compiles and makes publicly available egg price information in composite form without identifying what information it received from any specific egg dealer.

The judgment will further prohibit each consenting defendant from allocating with any other egg dealer in the Salt Lake City Market, the marketing areas in which each will sell or not sell or the accounts to which each will sell or not sell.

B. Required Conduct

In order to make the provisions of this judgment and the penalties for violation of it known to all responsible employees, each consenting defendant is required, within sixty days, to furnish a copy of the judgment to each of its officers and directors and to each agent or employee having responsibility for the purchase, sale or pricing of eggs. The judgment requires that each defendant report to the court within ninety days the fact that it has complied with this requirement and the manner in which it has done so. If new employees are hired or appointed in any of these positions, the judgment requires that they be furnished copies of the judgment within sixty days. In order to ensure that all employees required to receive a copy of the judgment do in fact receive a copy and become aware of the judgment's provisions, each consenting defendant must obtain and keep for ten years a signed statement from each such employee acknowledging receipt of the judgment. This permits enforcement of the judgment by means of a criminal contempt proceeding against employees who violate the prohibitions of the judgment.

If any consenting defendant sells all or substantially all of its egg business assets during the time the judgment is in effect, it is required to obtain the acquiring party's consent to be bound by the judgment's provisions.

The Department of Justice is given access under the proposed judgment to the files and records of the consenting defendants to examine such records for compliance or non-compliance with the judgment. The Department is also granted access to interview employees of the defendants to determine whether the consenting defendants are complying with the judgment. Defendants' officials may also be required to appear before the court to testify under oath regarding their companies' compliance with the judgment.

C. Effect of the Proposed Judgment on Competition

The relief encompassed in the proposed consent judgment is designed to prevent the consenting defendants from engaging in the activities alleged in the complaint. The prohibiting language of the judgment will ensure that each defendant makes its pricing decisions in buying and selling eggs without prior consultation, understanding or agreement with competing egg dealers. The judgment provides for sufficient access to the records of the consenting defendants to allow the Department to monitor compliance by those defendants.

The United States will continue to pursue this civil action against the remaining non-consenting defendant in order to obtain a court order enjoining it from engaging int the activities alleged in the complaint.

It is the opinion of the Department of Justice that, as to the consenting defendants, the proposed judgment is fully adequate to prevent future antitrust violations of this nature.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees.

Any potential plaintiffs will retain the same rights to seek monetary damages and equitable remedies that they would have had if the proposed judgment had not been entered. However, pursuant to Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the judgment may not be used in private litigation as *prima facie* evidence of a violation.

V. Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act any person believing that the proposed judgment should be modified may submit written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, within the 60 day period for public comment provided by the Act. The comments and the government's response to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of the judgment is necessary to the public interest. The proposed judgment itself provides that the court will retain jurisdiction over this action, and that the parties may apply to the court for such orders as may be necessary or appropriate for the modification or enforcement of the judgment.

VI. Alternatives to the Proposed Consent Judgment

This case does not involve such novel or unusual issues of fact or law as might make litigation a more desirable alternative than

the entry of this consent judgment. The proposed decree does not contain a judgment by the court, as requested in the complaint, that the consenting defendants have violated Section 1 of the Sherman Act. It states on the contrary that the judgment is neither an admission nor adjudication of such a violation. Litigation may result in an adjudication that the consenting defendants have violated the Sherman Act but the Department feels that the public interest is best served by the entry of the proposed judgment.

VII. Determinative Documents

There are no materials or documents that were determinative in formulating a proposal for a consent judgment. Accordingly, none are being filed by the government pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)).

Dated: March 7, 1980.

Gary R. Spratling,

Irene Saal Holmes,

Attorneys, U.S. Department of Justice.

[FR Doc. 80-8256 Filed 3-18-80; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

Solicitation Regarding Competitive Research Grant/Cooperative Agreement To Support Two Phase Study of Impact of Community Environments on Supervised Offenders

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 24, 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: March 7, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, National Institute of Justice.

[FR Doc. 80-8321 Filed 3-18-80; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

Full Council Meetings; April 21 and April 22

March 13, 1980.

Pursuant to Section 10 of the Federal Advisory Committee Act of 1972 notice is hereby given that the National Advisory Council on Economic Opportunity will hold meetings on Monday and Tuesday, April 21 and 22, 1980 at its office at 1725 K St. N.W., Suite 405, Washington, D.C. The meetings will begin at 9:30 EST each day and are open to the public.

The purpose of the meetings will be to discuss matters related to welfare reform, energy projects, the definition of poverty, national priorities, inflation and the status of the Community Services Administration.

The National Advisory Council on Economic Opportunity is authorized by Section 605 of the Community Services Act to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operation of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the office of the National Advisory Council on Economic Opportunity, 1725 K Street, N.W., Suite 405, Washington, D.C. 20006.

Walter B. Quetsch,

Executive Director.

Dolores A. Washington,

Staff Assistant.

[FR Doc. 80-8271 Filed 3-18-80; 8:45 am]

BILLING CODE 6820-42-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published February 22, 1980 (45 FR 11966). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meetings open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the April 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

Subcommittee and Working Group Meetings

**Emergency Core Cooling Systems (ECCS),* March 25, 1980, Rescheduled from March 26, Washington, DC. The Subcommittee will review the analysis of small break LOCAs in Westinghouse UHI reactors, and several ACRS generic items related to the capability of ECC systems. Notice of this meeting was published March 11 and March 19.

**Concrete and Concrete Structures,* March 25-26, 1980, Washington, DC. Rescheduled to April 22-23. Notice of this meeting was published March 10 and March 19.

**Natural Circulation and Feed and Bleed Heat Removal,* March 26, 1980, Rescheduled from March 25, Washington, DC. An Ad Hoc Subcommittee will review information presently available on natural circulation and feed and bleed heat removal systems. Also, areas where inadequate information is available will be examined, and planned NRC research programs and tests at Sequoyah and North Anna reactors will be reviewed to determine their ability to meet information needs. Notice of this meeting was published March 10 and March 19.

Anticipated Transients Without Scram (ATWS), March 26, 1980, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff to continue discussion of the proposed resolution of ATWS. Notice of this meeting was published March 11.

Three Mile Island, Unit 2 Accident Action Plans, April 1–2, 1980, Washington, DC. An Ad Hoc Subcommittee will review Draft 3 of NRC NUREG–0660, "Action Plans Developed as a Result of The TMI–2 Accident." Notice of this meeting was published March 17.

Babcock & Wilcox Water Reactors, April 8, 1980, Washington, DC.The Subcommittee will complete its review of the NRC Staff study to determine whether construction should be halted on certain B & W plants because of sensitivity of the once-through-steam generator (OTSG) to feedwater transients.

Three Mile Island, Unit–2 Accident Implications, April 9, 1980, Washington, DC. An Ad Hoc Subcommittee will discuss implications of the TMI–2 Accident as they relate to construction permit applications.

Regulatory Activities, April 9, 1980, (8:45 am), Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

Power and Electrical Systems, April 9, 1980 (2:00 pm), Washington, DC. The Subcommittee will consider the nuclear data link (NDL), presently being developed by NRC as part of the TMI–2 Accident Actions Plans.

Reactor Safety Research, April 9, 1980, (4:00 pm), Washington, DC. The Subcommittee will review the NRC office of Nuclear Regulatory Research response to ACRS recommendations to Congress on NRC research (NUREG–0657); also, the FY–82 budget review and preparation of the ACRS report to NRC will be discussed.

General Electric Test Reactor (GETR), April 18–19, 1980, Sunol, CA. The Subcommittee will continue its review of the geologic and seismologic aspects of the GETR plant site. Also, other matters related to the NRC Order to Show Cause may be discussed. Notice of this meeting was published February 22.

Licensee Event Report (LER), April 22, 1980, (8:30 am), Washington, DC. The Subcommittee will review plans of the new NRC Office of Analysis and Evaluation of Operational Data, and NRC action in response to the ACRS LER Report, (NUREG–0572).

Site Evaluation, April 22, 1980, (1:00 pm) Washington, DC. The Subcommittee will review the proposed Emergency Planning Rule (10 CFR, Part 50), published in the Federal Register December 19, 1979, and NUREG–0654, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants." Notice of this meeting was published February 22.

Concrete and Concrete Structures, April 22–23, 1980—Rescheduled from March 25–26, Washington, DC. The Subcommittee will review "user needs" in structural engineering and the way in which these needs have been met.

Reactor Radiological Effects, April 23, 1980, Washington, DC. The Subcommittee will review the radiological protection programs at nuclear power plants.

Natural Circulation and Feed and Bleed Heat Removal, April 24, 1980. An Ad Hoc Subcommittee will continue its review of information presently available on natural circulation and feed and bleed heat removal systems. Also, areas where inadequate information is available will be examined, and planned NRC (or other) tests that will be run to obtain needed information will be studied and the possible need for other tests will be explored.

Metal Components, April 24–25, 1980, Oak Ridge, TN. The Subcommittee will meet with representatives of the NRC and ORNL Staffs to review the Heavy Section Steel Technology (HSST) Program.

Reactor Fuel, April 29, 1980, Washington, DC. The Subcommittee will discuss the status of reactor fuel development and use in commercial LWRs, including particular problems or unusual events that occurred in the past year.

Reliability and Probabilistic Assessment, April 30, 1980, Washington, DC. The Subcommittee will continue its evaluation of the need to develop quantitative safety goals for nuclear power plants and consideration of the actual form these goals may take and what they should accomplish.

Consideration of Class 9 Accidents, May 6, 1980, Washington, DC. The Subcommittee will discuss consideration of low probability, high consequence accidents (including core melt) as part of the licensing process. The Integrated Fuel Melt Research Program will also be discussed.

ACRS Full Committee Meetings

April 10–12, 1980.

A. *Floating Nuclear Plant—Core ladle conceptual design.

B. *Sequoyah Nuclear Power Plant, Unit 1—Augmented Low-power test program.

C. *Anticipated Transients Without Scram (ATWS)—Proposed plant modifications.

D. *Pressurized Water Reactors with Once-Through-Steam Generators (OTSG)—Dynamic response to transients.

E. *NRC Action Plans to Implement Lessons Learned from the TMI–2 Accident—Proposed implementation of long term items.

F. *Code of Federal Regulations (10 CFR, Part 50, Appendix K, ECCs Evaluation Models)—Proposed changes in techniques to calculate clad-ballooning.

G. *Proposed Replies to NRC Commissioner V. Gilinsky re ACRS Report dated Dec. 11, 1979 on the pause in licensing and proposed use of the nuclear data link (NDL).

H. *Meeting with NRC Chairman J. Ahearne and other NRC Commissioners who may be present re ACRS activities as an NRC advisory committee, including ACRS comments on the NRC Action Plans.

May 1–3, 1980—Agenda to be announced

June 5–7, 1980—Agenda to be announced

Dated: March 14, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 8334 Filed 3–18–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Change of Date

The March 26, 1980 meeting of the ACRS Subcommittee on Emergency Core Cooling Systems has been rescheduled to be held on March 25. All items pertaining to this meeting remain the same as announced in the Federal Register March 11, 1980 (45 FR 15735).

Dated: March 14, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–8335 Filed 3–18–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on Natural Circulation Heat Removal; Change of Date

The March 25, 1980 meeting of the ACRS Ad Hoc Subcommittee on Natural Circulation Heat Removal has been rescheduled to be held on March 26, 1980. Notice of this meeting was announced in the Federal Register March 10, 1980 (45 FR 15347).

In addition, the title of this Ad Hoc Subcommittee has been changed to "ACRS Ad Hoc Subcommittee on Natural Circulation and Feed and Bleed Heat Removal."

All other items regarding this meeting remain the same as announced in cited notice.

Dated: March 14, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–8336 Filed 3–18–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Concrete and Concrete Structures; Change of Date

The meeting of the ACRS Subcommittee on Concrete and Concrete Structures announced in the Federal Register March 10, 1980 (45 FR 15346) has been rescheduled from March 25–26, to April 22–23, 1980. All other items regarding this meeting reamin the same as announced in the cited notice.

Dated: March 14, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-8337 Filed 3-18-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM-2-9]

Cincinnati Gas & Electric Company, et al.; Denial of Petition for Rulemaking

Notice is hereby given that the Nuclear Regulatory Commission has denied a petition for rulemaking (PRM-2-9) submitted by Troy B. Conner, Jr. of Conner, Moore & Corber, counsel for Cincinnati Gas & Electric Co., Columbus and Southern Ohio Electric Company and Dayton Power & Light Company. The petition requested the Commission to amend its regulation "Rules of Practice for Domestic Licensing Proceedings," 10 CFR Part 2, through the addition of a new § 2.718a and changes in Aprendix A to 10 CFR Part 2. In essence, petitioners seek the elimination of problems which they believe prolong many NRC adjudicatory hearings. The suggested amendments would, in petitioners' view, rectify the perceived problems by (1) limiting cross-examination by intervenors to contentions of the particular intervenor admitted in controversy, (2) limiting examination and cross-examination by intervenors strictly to the scope of the contention, and (3) direction the presiding officer to expedite hearings in NCR adjudicatory proceedings in a number of ways.

Specifically, the petitioners requested that the Commission amend 10 CFR Part 2 of its regulations as follows:

1. 10 CFR Part 2 would be amended by adding a new § 2.718a to read:

§ 2.718a Special rules for the conduct of evidentiary hearings.

(a) Cross-examination by an intervenor shall be limited to contentions granted to that intervenor, and

(b) Examination and cross-examination by an intervenor shall be limited strictly to the scope of its specific contention.

2. Appendix A to Part 2 would be amended by adding the following new sentences at the end of subsections V. (d)(4), (5), and (7), and (11), and by adding a new subsection (d)(15):

(d)(4) * * * As provided in § 2.718a, cross-examination may be conducted by intervenors only on contentions granted to them and examination and cross-examination by intervenors will be limited to granted contentions in order to protect against expansion of issues. The Board will not interrupt the taking of evidence to consider procedural matters unrelated to the contentions scheduled for that session of evidentiary hearings, unless failure to do so would in fact prejudice the rights of a party.

(d)(5) * * * It is expected that parties will prepare their examination and cross-examination of witnesses in advance and the Board shall not permit long delays by counsel in conducting questioning. Where a party is not represented by counsel, the presiding officer shall make every effort to avoid such delays.

(d)(7) * * * It is expected that the presiding officer shall endeavor to admit only competent and material evidence as well as relevant evidence. Nothing contained therein shall prohibit the presiding officer from excluding matters which do not meet these tests or which are otherwise of no probative value to an issue. It is expected that the presiding officer shall endeavor to rule on evidentiary questions without delay and avoid prolonged conferences and recesses before ruling on objections and motions relating to such matters.

(d)(11) * * * In contested cases, particularly in an operating license proceeding, the presiding officer shall avoid questioning in areas which are not essential to the resolution of contentions, except as provided in section VIII(b).

(d)(15) * * * In order to expedite the receipt of evidence in adjudicatory proceedings, the presiding officer will, to the extent practicable, limit luncheon recesses to one hour and morning and afternoon recesses to ten minutes.

A notice of filing of the petition requesting comments by November 13, 1979 was published in the **Federal Register** on September 12, 1979 (44 FR 53114).

One letter of public comment was received which supported the petition. Both the petition and comment were placed in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., where they are available for public inspection.

The Nuclear Regulatory Commission shares the concern voiced by the petitioners and commenter regarding the need for efficiency in the Commission's adjudicatory proceedings and agrees that unnecessary delays should be avoided whenever possible. Since its inception, the Commission has recognized the need for a nuclear power plant licensing process which will achieve more effective public participation in the process and, at the same time, increase efficiency in the conduct of public hearings. However, the Commission finds that the proposed changes are either not justified or not necessary.

The first proposed rule change, limiting cross-examination by an intervenor only to its admitted contentions (§ 2.718a(a), cuts against a long established principle first enunciated in *Northern States Power Co.* (Prairie Island Nuclear Power Plant, Units 1 & 2), ALAB-244, 8 AEC 857 (1974), that an intervenor may cross-examine on contentions other than its own. This right is subject to the intervenor's having a discernible interest in resolution of the matter and is also subject to the Board's authority to assure that such participation is not irrelevant, repetitious, cumulative or otherwise of no value to the ventilation of the issues in contest (8 AEC 868).

The "Prairie Island Rule" was specifically affirmed by the Commission in 1975. CLI-75-1, 1 NRC 1 (1975). The Commission there stated:

> * * * we wish to underscore the fundamental importance of meaningful public participation in our adjudicatory process. Such participation, performed in the public interest, is a vital ingredient in the open and full consideration of licensing issues and in establishing public confidence in the sound discharge of the important duties which have been entrusted to us. It cannot be disputed that only if our rules provide for, and are perceived by all to allow, "full exploration of the safety and environmental aspects of each reactor for which a construction permit or operating license is sought," will the objective of such meaningful participation be achieved. We do not believe, nor do we intend, that this interpretation of our rules will lead to "open ended" examination, as the staff fears, or "needless and unproductive delay", as the hearing board anticipated. As stated by the Appeal Board, such inquiry shall be "strictly confined to the scope of the direct examination in order to insure that it does not have the effect of expanding the boundaries of the contested issues."

If, as suggested by the petitioner, atomic safety and licensing boards have not imposed the limitations on cross-examination on contentions other than those raised by the intervenor, as stated by the Appeal Board, the remedy lies in Commission instructions to licensing boards emphasizing those limitations, rather than in a rule change.

On balance, it appears that the petitioners have not shown sufficient need for departing from the Commission's established policy of permitting cross-examination by an intervenor on contentions other than its own.

The second part of the proposed rule change, in § 2.718a(b), that examination and cross-examination by an intervenor be limited strictly to the scope of the specific contention, is also, at least in part, reflected in Commission policy. The Appeal Board, in the Prairie Island case, 8 AEC 857, stated specifically, in footnote 17 on p. 869, that:

> To avoid possible misunderstanding, it should be stressed that we do *not* hold here that an intervenor may adduce affirmative evidence (or do anything else during the course of the hearing other than conduct cross-examination) with regard to an issue placed in contest by another party.

Existing policy as noted in the Commission's opinion in the Praire Island case, quoted above, is that cross-examination on issues not raised by an intervenor must be "strictly confined to the scope of the direct examination in order to insure that it does not have the effect of expanding the boundaries of the contested issues." 1 NRC 2.

The proposed changes to Appendix A would, for the most part, provide authority or instruction to atomic safety and licensing boards in conducting hearings in facility licensing proceedings that are already included in Part 2.

Thus, § 2.714(e) and (f) authorize atomic safety and licensing boards to condition orders permitting intervention to (a) restrict irrelevant, duplicative or repetitive evidence and argument, (b) require representation of common interests by a spokesman, (c) retain authority to determine priorities and control the compass of the hearing and (d) limit an intervenor's participation if the intervenor's interest is limited to one or more of the issues in the proceeding. Section 2.718 grants to presiding officers all powers necessary to, among other things, take appropriate action to avoid delays, including regulating the course of the proceeding and the conduct of the participants. Paragraph 2.743(b) requires parties to submit direct testimony in writing unless otherwise ordered by the presiding officer and § 2.743(c) provides that only relevant material and reliable evidence which is not unduly repetitious will be admitted. Section 2.757 permits the presiding officer to, among other things, take necessary and proper measures to prevent argumentative, repetitious, or cumulative cross-examination.

In view of the foregoing, the Commission has denied the petition for rulemaking filed by Troy B. Conner, Jr. on July 31, 1979 on behalf of Cincinnati Gas & Electric Company, *et al.* A copy of the Commission's letter of denial is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Washington, D.C., this 12th day of March 1980.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-8339 Filed 3-18-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, OH 940-4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 2 to Regulatory Guide 8.14 and is entitled "Personnel Neutron Dosimeters." This proposed revision is being developed to update the guidance provided by the NRC staff on the use of personnel neutron dosimeters where exposure to neutrons occurs. It will continue to endorse, with additional qualification, the standard, ANSI N319-1976, "Personnel Neutron Dosimeters (Neutron Energies Less than 20 MeV)."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by May 19, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reprocued) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 11th day of March 1980.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 80-8340 Filed 3-18-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-73, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Power company, which added license conditions and revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 2, located in Londonderry Township, Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Appendix B Technical Specifications relating to the operation of an EPICOR-II filtration and ion exchange decontamination system to decontaminate intermediate level radioactive waste water held in tanks in the TMI-2 auxiliary building and adds license conditions regarding availability of storage tanks and shipment of resins offsite.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of proposed issuance of this amendment was provided in the Order

for Modification of License dated October 18, 1979 (44 FR 61276) issued by the Director, Office of Nuclear Reactor Regulation. The Order provided that the licensee or any person whose interests may be affected could request a hearing on this matter on or before November 5, 1979. The Susquehanna Valley Alliance filed a timely petition to intervene and request for a hearing which was conditionally granted by the Atomic Safety and Licensing Board (the Board) on November 15, 1979. On November 30, 1979 the NRC staff filed a Joint Motion to Terminate Proceeding based on an Agreement executed by the intervenor, the licensee, and the NRC. On December 3, 1979 the Board issued an Order Granting Motion to Terminate Proceeding.

In connection with issuance of this amendment, the Commission has issued a Negative Declaration and Environmental Assessment, "Use of EPICOR-II at Three Mile Island, Unit 2," NUREG-0591. The Environmental Assessment was revised to address comments which had been submitted and was supplemented by discussion at open Commission meetings on October 4 and 10, 1979. For further details with respect to this action, see (1) the Commission's Memorandum and Order dated October 16, 1979, (2) the Order for Modification of License dated October 18, 1979 (44 FR 61276-8 as clarified 62633), (3) the ASLB Order Granting Joint Motion to Terminate Proceeding dated December 3, 1979, (4) the Commission's Negative Declaration dated October 18, 1979 and the associated Environmental Assessment, and (5) the transcripts of the October 4 and 10, 1979 open Commission meetings. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Harrisburg, Pennylvania. A copy of items (1), (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Three Mile Island Support.

Dated at Bethesda, Md., this 12th day of March, 1980.

For the Nuclear Regulatory Commission.

Richard H. Vollmer,

Director, Three Mile Island Support.

[FR Doc. 80-8338 Filed 3-18-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6299]

Electronics, Missiles, and Communications, Inc.; Common Stock, $.01⅔ Par Value; Application To Withdraw From Listing and Registration

March 13, 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 Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Electronics, Missiles & Communications, Inc.'s (the "Company") common stock became listed and registered on the BSE on January 2, 1975.

2. Company management has determined that because of the limited publication of the BSE's quotes, its shareholder's interest would be better served if trading in its common stock reverted to the over-the-counter market.

Any interested person may, on or before April 14, 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. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-8342 Filed 3-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11083; 812-4583]

John Hancock Mutual Life Insurance Co. and John Hancock Variable Account C-1; Filing of Application

March 13, 1980.

In the matter of John Hancock Mutual Life Insurance Company and John Hancock Variable Account C-1, John Hancock Place, Boston, Massachusetts 02117. Notice of filing of application pursuant to section 6(c) of the Act for an order granting exemptions from the provisions of sections 17(f), and 27(c)(2) of the Act and rule 17f-2 thereunder.

Notice is hereby given that John Hancock Variable Account C-1 (the "Account"), a diversified, open-end management investment company registered under the Investment Company Act of 1940 (the "Act"), and John Hancock Mutual Life Insurance Company ("John Hancock"), a mutual life insurance company incorporated under the laws of the State of Massachusetts (hereinafter collectively called "Applicants"), have filed an application on December 14, 1979 and an amendment thereto on February 25, 1980 for an order pursuant to Sections 17(f), and 27(c)(2) of the Act and Rule 17f-2 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

John Hancock established the Account as an investment medium for certain variable annuity contracts (the "Contracts") to be issued by John Hancock. The Contracts offered for sale by John Hancock, as principal underwriter of Account C-1, may be Single Payment Immediate or Deferred Contracts (hereinafter collectively called "Single Payment Contracts") or Periodic Payment Deferred Contracts ("Periodic Payment Contracts"). In the case of all Contracts, John Hancock will make deductions from purchase payments for sales and administrative expenses, for taxes, if any, based on the amount of the purchase payment and, in the case of Deferred Contracts, for the undertaking of John Hancock to pay a minimum death benefit. Under Periodic Payment Deferred Contracts, total deductions from purchase payments for sales expenses will equal 4.5 percent of the first $5,000 of purchase payments, 3.5 percent for the next $5,000 or purchase payments, 2.5 percent of the next $15,000 of purchase payments, and 2 percent of any purchase payments over $25,000. The deductions under Periodic Payment Deferred Contracts for administrative expenses are 1.5 percent of purchase payments up to $25,000 and 1 percent of purchase payments over that amount. The deduction for the minimum death benefit is 0.5 percent of every purchase payment. Further, under Peridic Payment Deferred Contracts a maintenance charge equal to the lesser of $10 or 2 percent of the value of the Contract will will be deducted from the Contract annually.

Under Single Payment Contracts, the maximum deduction from any purchase payment for sales expenses will be 3.5 percent for either a Deferred or Immediate Contract. Additionally, there is an administrative expense deduction of $50 plus a maximum of 0.5 percent of the first $25,000 of the purchase payment under either kind of Single Payment Contract and a deduction under the Single Payment Deferred Contract of 0.5 percent of the purchase payment for the minimum death benefit.

Section 27(c)(2)

Section 27(c)(2) of the Act prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by Section 26(a) (2) and (3) for trust indentures of a unit investment trust.

Applicants assert that all purchase payments received under the Contracts, after deductions for sales and administrative expenses, are to be applied or held for later application to the purchase of investments for the Account, of which John Hancock will have custody as owner and not as trustee. Exemption is requested from Section 27(c)(2) to permit all purchase payments received under the Contracts to be held and applied by John Hancock in the manner set forth in its Management Agreement which requires, in part, that moneys received for the Account be deposited in one or more cash accounts identified as assets of the Account maintained in one or more banks which will have the qualifications prescribed in paragraph (1) of Section 26(a) of the Act for trustees of unit investment trusts, but which banks will not act as trustee or custodian, or under an indenture or agreement meeting the requirements in Sections 26(a) (2) and (3).

Section 17(f)

Section 17(f) of the Act provides, in pertinent part, that every registered management company shall place and maintain its securities and similar investments in the custody of (1) a bank having the qualifications prescribed in Paragraph 1 of Section 26(a) for trustees of unit investment trusts; (2) a company which is a member of a national securities exchange as defined in the Securities Exchange Act of 1934; or (3) such registered company, but only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors. Rule 17f–2 provides, among other things, that such assets be placed in a bank subject to the requirements of the rule, one of which limits the persons who shall have access to such assets to only certain specific individuals.

Applicants request an exemption from the provisions of Section 17(f) and Rule 17f–2 to the extent necessary to permit the securities and similar investments of Account C–1 to be placed and maintained in the custody of John Hancock in its vault located at its Home Office in Boston, Massachusetts or in a securities depository in accordance with the terms and conditions of Rule 17f–4 under the Act.

In support of their requested exemptions from Section 27(c)(2), Section 17(f) and Rule 17f–2 thereunder, Applicants state that John Hancock is subject to extensive supervision and regulation by the Commissioner of Insurance of Massachusetts, and to the applicable insurance laws, in the other jurisdictions in which John Hancock does an insurance business. In addition, under Massachusetts law, John Hancock cannot abandon its obligations to Owners or annuitants until they have been fully discharged, and the assets of the Account, equal to the reserves and other liabilities under the Contracts, are not chargeable with liabilities arising out of any other business that John Hancock may conduct. Applicants also represent that John Hancock's vault is similar or superior in every respect to the vaults of most banks and that John Hancock maintains within it securities and other investments having a value in excess of $7,000,000,000. In addition, the supervisory functions of the Massachusetts Commissioner of Insurance include periodic inspections of John Hancock's vault and examination of every aspect of John Hancock's operations. Applicants further state that the Account's investment will be physically segregated at all times, that its securities may be withdrawn only for certain purposes, that its investments will at all times be subject to inspection by the Commission, that each person depositing or withdrawing investments will sign a notation in respect thereof, and that only certain designated persons will have access to the securities and other investments in the Account as follows: (1) Two or more jointly of the not more than 10 officers or responsible employees of the Account or of John Hancock designated pursuant to a resolution of the Board of Managers of the Account; (2) Properly authorized officers and employees of John Hancock; (3) For the purposes of verification, audit and examination, independent public accountants jointly with any of the persons designated above; and (4) Authorized employees or agents of the state insurance regulatory authorities.

Section 6(c) authorizes the Commission upon application to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act or the Rules and Regulations promulgated 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.

Applicants have consented that any order granting the requested exemption from Section 27(c)(2) be made subject to the conditions (1) that the charges under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved to the Commission for such purpose, and (2) that the payment of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charge out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Notice is hereby given that any interested person may not later than April 9, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the 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 Applicants at the address 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 herein may 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) any any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-8343 Filed 3-18-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1807]

Utah; Declaration of Disaster Loan Area

Cache County and adjacent Counties within the State of Utah constitute a disaster area as a result of severe flooding caused by heavy rains from January 11 through January 14, 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 12, 1980, and for economic injury until the close of business on December 15, 1980, at:

Small Business Administration, District Office, 125 South State Street, Room 2237, Salt Lake City, Utah 84138.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 13, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 8385 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:30 a.m., Thursday, May 15, 1980, at the Sheraton Gardens Hotel, Route 537, Freehold, New Jersey, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Stanley H. Salt, Acting District Director, U.S. Small Business Administration, 970 Broad Street, Newark, New Jersey 07102—(201) 645–3580.

Dated: March 13, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8363 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Baltimore, Maryland, will hold a public meeting at 9:00 a.m., Friday, May 9, 1980, at the Sheraton Inn-Frederick, I–270 & Route 85, Frederick, Maryland, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Gerard J. Lang, Deputy District Director, U.S. Small Business Administration, 630 Oxford Building, 8600 LaSalle Road, Towson, Maryland, 21204—(301) 962–2054.

Dated: March 13, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8364 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting at 9:30 a.m., Thursday May 1, 1980, at the Doylestown Inn, 18 West State Street, Doylestown, Pennsylvania, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, Philadelphia District Office, One Bala Cynwyd Plaza, Suite 400-East Lobby, Bala Cynwyd, Pennsylvania 19004—(215–596–5801).

Dated: March 12, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8362 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, South Carolina, will hold a public meeting at 10:00 a.m., Tuesday, April 15, 1980, at The Greystone Restaurant, 304 Greystone Boulevard, Columbia, South Carolina, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Vern F. Amick, District Director, U.S. Small Business Administration, 1835 Assembly Street, P.O. Box 2786, Columbia, South Carolina 29202—(803) 765–5373.

Dated: March 12, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8361 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Meeting

The Small Administration Region VI Advisory Council, located in the geographical area of Lubbock, Texas, will hold a public meeting at 8:30 a.m., Tuesday, May 13, 1980, at the Lubbock Memorial Civic Center, Lubbock, Texas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Curtis G. Olson, District Director, U.S. Small Business Administration, 712 Federal Office Building & Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401—(806) 762–7462.

Dated: March 13, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8355 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council Meeting

The Small Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City, Utah, will hold a public meeting at 9:00 a.m., Friday, April 18, 1980, Ogden Golf & Country Club, 4197 Washington Boulevard, Ogden Utah, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call W. Grant Evans, Assistant District Director for Finance & Investment, U.S. Small Business Administration, 2237 Federal Building, 125 South State Street, Salt Lake City, Utah 84138—(801) 524–5804.

Dated: March 14, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8353 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Phoenix, Arizona, will hold a public meeting at 3:00 p.m., Wednesday, April 16, 1980, in the board room of the Thunderbird Bank, 2031 W. Camelback Road, Phoenix, Arizona, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Mack Kehoe, Public Information Officer, U.S. Small Business Administration, 3030 North Central Avenue, Suite 1201, Phoenix, Arizona 85012—(602) 261-2206.

Dated: March 14, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8354 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting at 10:00 a.m., Thursday, April 17, 1980 through noon on Friday, April 18, 1980, at the Sheraton Beach Inn, Richmond, Virginia, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration and others attending.

For further information, write or call Raymond P. Kuttenkuler, District Director, U.S. Small Business Administration, P.O. Box 10126, Richmond, Virginia 23240—(804) 771-2741.

Dated: March 12, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8358 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky, will hold a public meeting from 10:00 a.m., Thursday, April 17, 1980 through 12:00 noon, Friday, April 18, 1980, at the Executive Inn Rivermont, One Executive Boulevard, Owensboro, Kentucky, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call John W. Ireland, Acting District Director, U.S. Small Business Administration, P.O. Box 3517, Louisville, Kentucky 40201—(502)582-5971.

Dated: March 12, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8359 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Columbus, Ohio, will hold a public meeting from 2:00 p.m. to 5:00 p.m., Tuesday, April 8, 1980, at the Columbus District Office, 85 Marconi Boulevard, Columbus, Ohio, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Janice E. Wolfe, Acting District Director, U.S. Small Business Administration, 85 Marconi Boulevard, Columbus, Ohio 43215—(614) 469-7310.

Dated: March 12, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8357 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, Missouri, will hold a public meeting at 10:00 a.m., Tuesday, April 29, 1980, at the District Office Conference Room, Lower Level, 1150 Grand Avenue, Kansas City, Missouri, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Douglas F. Graves, District Director, U.S. Small Business Administration, Twelve Grand Building, 1150 Grand Avenue, Fifth Floor, Kansas City, Missouri 64106—(816) 374-5557.

Dated: March 12, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-8360 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1805]

New York; Declaration of Disaster Loan Area

The area of South 4th Avenue (between West 1st Street and West 2nd Street) and West 1st Street (between South 4th and 5th Avenues) in the City of Mount Vernon, Westchester County, New York, constitutes a disaster area because of damage resulting from a fire which occurred on March 3, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 12, 1980, and for economic injury until the close of business on December 12, 1980, at:

Small Business Administration, District Office, 26 Federal Plaza—Room 3100, New York, New York 10007.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 13, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-8356 Filed 3-18-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[521487]

Decision Denying American Manufacturer's Petition Requesting the Reclassification of Sheets of Acrylic Resin; Notice of Petitioner's Desire To Contest This Decision

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of (1) decision on American manufacturer's petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to an American manufacturer's petition requesting that acrylic resin sheets, regardless of dimension, be reclassified under the provision for nonflexible sheets of acrylic resin in item 771.45, Tariff Schedules of the United States (TSUS), the Customs Service advised the petitioner that acrylic resin sheets, measuring over 15 inches in width and 18 inches in length, would continue to be

classified under the provision for flexible plastic sheets in item 771.42, TSUS, provided the sheets could be easily bent, turned, or twisted by hand without being broken, cracked, or permanently distorted upon returning by themselves to their original shape. Upon being informed that its petition had been denied, the petitioner filed notice of its desire to contest the decision of the Customs Service.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

A petition was filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by Rohm and Haas Company, Philadelphia, Pennsylvania, an American manufacturer of acrylic resin sheets. The petition requested that acrylic resin sheets, regardless of dimension, be reclassified under the provision for nonflexible sheets of acrylic resin in item 771.45, Tariff Schedules of the United States (TSUS). Notice of receipt of the petition, which was published in the **Federal Register** on January 12, 1979 (44 FR 2745), indicated that it is current Customs practice to classify acrylic resin sheets measuring over 15 inches in width and 18 inches in length under the provision for flexible plastic sheets in item 771.42, TSUS, provided the sheets can be easily bent, turned, or twisted by hand without being broken, cracked, or permanently distorted upon returning by themselves to their original shape. This practice is derived, in part, from the decision in *Sekisui Products, Inc.* v. *United States*, 63 Cust. Ct. 123, C.D. 3885 (1969), in which the United States Customs Court noted that an article, in order to be flexible, need not be capable of being bent, bowed or twisted, in *every* direction.

It is the petitioner's basic contention that acrylic resin sheets are specifically provided for by name in item 771.45, TSUS, and are commercially characterized as rigid plastic sheets. In this regard, the petitioner argues that the dictionary definition of a flexible sheet as one that can be easily bent must yield to industry standards of defining flexibility. It is the position of the Customs Service, however, that acrylic resin sheets of the kind in question conform to the definition of flexibility expressed by the Customs Court in the *Sekisui* case, *supra*. To substitute industry standards for flexibility as suggested by the petitioner would be contrary to judicial precedent. Furthermore, the legislative history of item 771.42, TSUS, indicates that imports of flexible acrylic resin sheets are classifiable thereunder.

Decision on Petition and Receipt of Petitioner's Notice of Desire To Contest

In Headquarters letter dated August 6, 1979, file No. 057473, the petitioner was advised that his petition was denied and that the Customs Service would adhere to its practice of classifying acrylic resin sheets measuring over 15 inches in width and 18 inches in length under the provision for flexible plastic sheets in item 771.42, TSUS, provided the sheets can be easily bent, turned, or twisted by hand without being broken, cracked, or permanently distorted upon returning by themselves to their original shape.

In response to this decision, the petitioner filed his notice of desire to contest, in accordance with section 516(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.23 of the Customs Regulations (19 CFR 175.23). However, under section 516(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(e)), current Customs practice will continue so long as no decision of the United States Customs Court or the United States Court of Customs and Patent Appeals not in harmony with this practice is published.

Authority

This notice is being published in accordance with section 516(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.24 of the Customs Regulations (19 CFR 175.24).

Dated: March 13, 1980.

Jack T. Lacy,

Acting Commissioner of Customs.

[FR Doc. 80-8322 Filed 3-18-80; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

Career Development Committee; Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Career Development Committee, authorized by 38 U.S.C. 4101, will be held in Room A–53 of the Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, April 2–4, 1980 at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration system. The Committee advises the Director, Medical Research Service on selection and appointment of Associate Investigators, Research Associates, Clinical Investigators, Medical Investigators, Senior Medical Investigators and William S. Middleton Award Nominees.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mr. David D. Thomas, Executive Secretary of the Committee, Veterans Administration Central Office, Washington, DC (202–389–2317) prior to March 15, 1980.

The meeting will be closed from 9 a.m. to 5 p.m. on April 2–4 for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the several candidates, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. In addition, decisions recommended by the board are strictly advisory in nature; other factors are considered in final decisions. Premature disclosure of board recommendations as well as the disclosure of research information would be likely to significantly frustrate implementation of final proposed agency actions. Accordingly, closure of this portion of the meeting is permitted by section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463 as amended, in accordance with subsections (c) (6) and (c)(9)(B) of the Government in the Sunshine Act, 5 U.S.C. 552b.

Minutes of the meeting and rosters of the committee members may be obtained from Mr. David D. Thomas, Chief, Career Development Program, Medical Research Service, Veterans Administration, Washington, DC (Phone 202–389–2317).

Dated: March 14, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 8304 Filed 3-18-80; 8:45 am]

BILLING CODE 8320-01-M

Issuance of Policies and Procedures for Participation of Fee Personnel in the Home Loan Program

AGENCY: Veterans Administration.

ACTION: Notice of final policies.

SUMMARY: The VA (Veterans Administration) is finalizing policies on

the participation of fee appraisers and compliance inspectors in the VA's home loan program.

EFFECTIVE DATE: March 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, 202–389–2691.

SUPPLEMENTARY INFORMATION: On August 21, 1979, the VA published for comment in the **Federal Register** (44 FR 49087) proposed policies applicable to the qualifications, designation, suspension and removal of fee appraisers and compliance inspectors participating in the VA home loan program.

Two responses were received. One of these comments contained two recommendations. The first recommendation was for a reduction of the 5-year experience requirement set forth in VA Regulation 4339, Qualification for Designated Fee Appraisers. It is important to note that VA Regulation 4339, § 36.4339, title 38, Code of Federal Regulations, which has been in effect since January 21, 1947, does not specify 5 years of appraisal experience, rather that "to qualify for approval of a designated fee appraiser, an applicant must show to the satisfaction of the Administrator that his or her character, experience, and the type of work in which he or she has had experience for at least 5 years qualifies the applicant to competently appraise and value within a prescribed area the type of property to which the approval relates." In other words, the regulations is restrictive as to a minimum of 5 years' experience, but it permits VA field stations the latitude to interpret the type of work which can be considered qualifying experience in the appraisal or related fields.

The VA utilizes fee basis appraisers to appraise residential real estate and recommend value for loan purposes. A VA fee appraiser is not a Government employee but rather a qualified individual in the private business sector who agrees to provide VA with real estate appraisals for a set fee in a specific designated area. These appraisers are contract or fee appraisers who are independent business persons. The fee appraiser's estimate of value is reviewed by a staff appraiser who uses the data to establish the VA reasonable value, which becomes the maximum loan amount for an eligible veteran. The staff review is usually an office review although a minimum of 10 percent must be field reviewed. In view of the importance of the fee appraiser's estimate of value, it is imperative that the fee appraiser have significant experience and expertise. VA staff appraisers perform a review function in the valuation process. Since the staff appraiser reviews and supervises the work of fee appraisers, and on a limited basis, makes origination appraisals, qualification requirements for fee appraisers should approximate the requirements published by the Office of Personnel Management for a staff appraiser. The "journeyman" experience requirement for GS–11 staff appraiser established by the Office of Personnel Management is 6 years (3 years' general and 3 years' specialized). VA's 5-year related experience requirement for fee appraiser applicants provides sufficient flexibility to give all applicants equal opportunity to qualify for designation. The other major residential housing agency, the Department of Housing and Urban Development, requires that fee personnel qualifications must equal or exceed the Office of Personnel Management standards for comparable staff personnel. It is concluded, therefore, that the 5-year experience requirement is not only reasonable, but consistent with standards established for similar positions in the Federal Government.

The other recommendation by this commentor is that the "full-time" requirement be dropped as it may constitute an unnecessary and inappropriate burden for a substantial segment of the workforce who work only part time. It was not VA's intention to require or favor designating only those persons who devoted 40 hours a week to appraising real property. Rather, it was VA's intention to favor designating, whenever possible, those persons whose principal business is appraisal, as opposed to persons presently engaged in other aspects of real estate; e.g., sales brokers, for whom appraisal is only a sideline. The rationale for this position is to avoid conflicts of interest or the appearance of conflicts of interest. VA recognizes that the use of the term "full-time appraisers" may be misleading. Accordingly, paragraph 4b(2) is amended to provide that designations of fee appraisers should be made to those who specialize in real estate appraisals.

The other comment received concerned the required use of VA Form 26–1803, Residential Appraisal Report, in the performance testing of appraiser applicants. The commentor believed that the performance testing requirement should be broadened to permit the acceptance of a narrative appraisal report. narrative-type reports are commonly used in private industry and fee appraiser applicants not familiar with VA Form 26–1803 or VA Form 26–8712, Mobile Home Appraisal Report, may be unnecessarily disadvantaged by such a requirement. Accordingly, paragraph 4b(4) and (6) has been amended to specify that the performance test may be a demonstration appraisal with the report submitted either on the applicable VA form or in narrative report form.

Accordingly, DVB Circular 26–80—, Processing of Applicants for Fee Appraiser and Compliance Inspector Roster, is adopted as set forth below.

By direction of the Administrator.

Approved: March 13, 1980.

Rufus H. Wilson,

Deputy Administrator.

DEPARTMENT OF VETERANS BENEFITS

Veterans Administration

[DVB Circular 26–80–]

Processing of Applicants for Fee Appraiser and Compliance Inspector Rosters

1. *Purpose.* The purpose of this circular is to announce new procedures for processing applications and appointing appraisers and compliance inspectors to fee rosters. The procedures for the supervision and removal of such fee personnel are also covered.

2. *Responsibility for Selection, Designation and Separation of Loan Guaranty Fee Personnel.* DVB field stations will be responsible for the selection and designation of qualified persons to Loan Guaranty fee rosters and for the removal of such designated personnel as may be in the best interest of the VA. The Construction and Valuation Section, Loan Guaranty Division, will handle all matters related to fee appraisers and compliance inspectors; i.e., maintenance of fee personnel files, receiving and responding to related correspondence, making arrangements for and administering written examinations, managing the roster of appraisers and compliance inspectors, etc.

3. *Fee Roster Committee.* A Fee Roster Committee will be established consisting of the Loan Guaranty Officer, the Assistant Loan Guaranty Officer, and the Chief of the Construction and Valuation Section. If there is no Assistant Loan Guaranty Officer position at a station, a section chief in the Division will be designated by the Loan Guaranty Officer. The Loan Guaranty Officer will be the Chairperson of the committee.

4. *Qualification Requirements*—a. *General Requirements for Appraisers and Compliance Inspectors.* (1) Applicants must have complied with local or State licensing requirements, if any, prior to designation.

(2) Designation will not be made in those instances in which an applicant's employment or other position may result in a conflict of interest between such position or employment and performance as a fee person with the VA, or when embarrassment, adverse public relations or adverse publicity

concerning the applicant or the VA might result.

(3) An individual may be designated to more than one fee roster.

(4) A satisfactory credit report must be obtained for each applicant before designation.

(5) Employees of Federal or quasi-governmental organizations; i.e., FNMA (Federal National Mortgage Association), FHLMC (Federal Home Loan Mortgage Corporation), Postal Service, will not be approved by VA as fee appraisers or compliance inspectors. Employees of local or State governments may be designated, but care must be taken that assignments to them will not result in a conflict of interest or the appearance of a conflict of interest.

(6) An applicant must submit three letters of reference attesting to the applicant's qualifications as an appraiser or inspector as listed on the application.

b. *Fee Appraisers.* (1) With respect to qualifications for designation as a VA fee appraiser, VA Regulation 4339 provides as follows:

To qualify for approval as a designated fee appraiser, an applicant must show to the satisfaction of the Administrator that his or her character, experience, and the type of work in which he or she has had experience for at least 5 years qualifies the applicant to competently appraise and value within a prescribed area the type of property to which the approval relates.

(2) When it is possible, every effort should be made to only designate fee appraisers who (a) specialize in real estate appraisals, (b) have completed basic appraisal courses and (c) are not connected with a firm or firms active in the origination of VA loan applications.

(3) Those appraisers who wish to appraise condominiums, planned unit developments, new construction or other complex assignments must demonstrate past significant experience, education and ability in this type of appraising.

(4) A written test and a performance test will be given the applicant in order to evaluate the applicant's capabilities. The written test will be prepared by the station and will test the applicant's knowledge of appraisal theory and terminology. The performance test will be a demonstration appraisal with a report submitted on VA Form 26–1803, Residential Appraisal Report, or in narrative report form. The station may waive the written test in cases in which it is determined that the applicant possesses the desired knowledge. Completion of the demonstration appraisal, however, will not be waived. Prior to the performance test, the applicant will be furnished with instructional and procedural material necessary to complete the appraisal. A sample appraisal on VA Form 26–1803 should be part of this material, unless the narrative report method is used.

(5) No written or performance test will be required for designation to make appraisals provided in VA Regulation 4340, or to make appraisals for supplemental loans when the cost of the repairs, alterations, or improvements does not exceed $3,500. Evaluation of the qualifications of such applicants for approval shall be on the basis of information contained in the application.

(6) The procedures outlined in subparagraph (4) above will also be applicable to mobile home appraisers. However, the performance test will be a demonstration appraisal utilizing VA Form 26–8712, Mobile Home Appraisal Report, instead of VA Form 26–1803, unless the report is submitted in narrative format. Additionally, the instructional and procedural material necessary to complete the appraisal will include a sample appraisal on VA Form 26–8712, if that form is to be used in the performance test.

Note.—The requirement for a credit report and letters of reference will not be applicable in the case of an officer or employee of a supervised lending institution who is designated to make appraisals as provided in VA Regulation 4340.

c. *Compliance Inspector.* (1) To qualify for designation as a VA compliance inspector, an applicant must have at least 5 years of experience which would competently qualify him or her to make inspections within a prescribed area of the type of property to which the approval relates. To be considered qualifying, the experience must have been one of the following types or a combination thereof:

(a) As a construction inspector or real properties for the purpose of determining compliance with construction requirements established by law;

(b) As a construction engineer;

(c) As an architect;

(d) As a superintendent of construction in large housing developments;

(e) As a builder of residential or commercial properties; and/or

(f) In other capacities of a like nature in which the applicant has demonstrated an ability to perform the duties of a compliance inspector.

(2) A written test and a performance test will be given the applicant in order to evaluate the applicant's capabilities. The written test will be prepared by the station and will test the applicant's knowledge of construction techniques and terminology. The performance test may be a demonstration inspection on VA Form 26–1839, Compliance Inspection Report. The station may waive the written test in cases in which it is determined that the applicant possesses the desired knowledge. Completion of the demonstration inspection, however, will not be waived. Prior to the performance test, the applicant will be furnished with instructional and procedural material necessary to complete the inspection.

5. *Application Processing.* a. One of the following application forms will be used when applying for designation as a VA fee appraiser or compliance inspector:

(1) VA Form 26–6681, Application for Designation as Fee Appraiser;

(2) VA Form 26–6681a, Application for Designation as Fee Appraiser for Mobile Home Loans; or

(3) VA Form 26–6683, Application for Designation as Compliance Inspector.

b. In addition to one of the application forms listed above, each applicant must submit VA Form 26–6684, Statement of Fee Appraisers or Compliance Inspectors.

c. Upon receipt of an application, the Chief, Construction and Valuation Section, will determine if the basic qualifications have been met. Applications which meet the basic qualifications, but no vacancy exists, will be placed in a pending file and the applicant informed by letter that all eligible applications will be considered when a vacancy exists. Applicants who do not meet the basic qualifications will be so informed by letter and the application held for 6 months and then destroyed.

d. When the Loan Guaranty Officer determines that a need exists for fee personnel in an area, the committee will review the pending applications and determine the best qualified applicants.

6. *Designation Procedures.* Upon completion of the application processing described above, the Fee Roster Committee will review the application file and recommend the designation or rejection of the applicant to the Director. If the determination is made to designate, the individual will be notified by letter signed by the station Director. The letter will welcome the person to the fee roster and remind the person of the responsibilities involved. The letter will also point out that the first year on the roster is a probationary period. During this time the individual can be removed from the panel at the discretion of the Director. After the 1-year probationary period has been satisfied, removal must follow the procedure described in paragraph 9.

7. *Personnel and Performance Files.* a. A fee personnel file will be established and maintained for each fee applicant. This file should contain the individual's application, supporting letters of reference and appropriate correspondence concerning appointment and termination actions. (Documents relating to work assignments and internal Loan Guaranty matters will not be filed in the fee personnel folder.) The folders should be filed alphabetically by name in an "active" or "inactive" file. An "active" file for this purpose should contain folders of fee personnel who are on approved rosters, regardless of degree of activity.

b. A separate performance file will be maintained for each individual on a fee roster. The file will contain copies of correspondence relating to the individual's performance, such as field reviews, late notices, letters, etc. Any material in this file more than 2 years old can be destroyed. Detailed records of errors, delays in production, incompetence, pertinent interviews, letters of admonishment, and other similar material concerning designated fee appraisers and compliance inspectors shall be maintained to justify and support any action for disqualification.

c. Disposition of folders described above shall be in accordance with Records Control Schedule VB–1, part I.

8. *Proviate Interests of Fee Appraisers and Compliance Inspectors.* a. Except as may be otherwise expressly authorized by VA regulations, instructions or directives, designated or approved fee appraisers and compliance inspectors shall not engage in any private pursuits in which there may or will be:

(1) Any connection established that may result in a conflict between the private

interests of the VA fee appraiser or compliance inspector and his or her duties and responsibilities to VA and veterans.

(2) Any connection established that may tend to bias his or her judgment as a VA fee appraiser or compliance inspector.

(3) Any circumstances in which information obtained from or through a VA assignment to appraise or to make compliance inspections will be used to the detriment of the Government or veterans.

b. The foregoing statement of policy and standards are intended to preclude any fee appraiser or compliance inspector from:

(1) Selling land to a builder or sponsor and then making an appraisal or compliance inspection of dwelling units erected or to be erected thereon which are or will be purchased by veterans with guaranteed, insured or direct loans.

(2) Owning an interest in, being employed by, or operating an architectural, engineering, or land planning firm which renders services to builders or sponsors and later accepting an assignment from VA to appraise or inspect dwelling units built or to be built by a particular builder or sponsor for whom architectural, engineering, or land planning services have been or are being rendered by the firm in which the fee appraiser or compliance inspector has employment or an interest.

(3) Appraising or inspecting dwelling units on VA assignments and later accepting exclusive selling rights for the homes.

(4) Appraising or inspecting properties for builders or sponsors who are purchasing hazard insurance or title service with respect to those properties from a company in which the fee appraiser or compliance inspector has an interest.

(5) Owning an interest in a project development by a builder and accepting VA assignments in another VA regional area in respect to dwelling units which the same builder owns, is building, or is handling as a real estate broker.

(6) Having an interest in or representing building supply firms and accepting VA assignments on dwelling units built or to be built by builders or sponsors who deal extensively with such supply firms.

(7) Accepting a VA assignment to appraise a property if his or her fee is contingent upon supporting a predetermined conclusion.

c. The foregoing examples do not include all possible situations in which the private interests or pursuits of fee appraisers and compliance inspectors would contravene VA standards. The above specific examples are supplied only to illustrate some of the activities prescribed by the standards.

d. It is not intended that the provision of subparagraph b(3) above will forever preclude a fee appraiser or compliance inspector from acting as sales agent or broker in connection with a particular property which he or she has appraised or inspected. Those provisions mean that he or she may not accept exclusive selling rights for the sale of a property to a veteran financed with a VA loan when in the particular sale the appraisal is or has been used in establishing reasonable value or any compliance inspection made is or has been used in determining that onsite improvements were completed in accordance with approved plans and specifications and minimum property requirements. The rule in subparagraph b(3) does not apply when he or she accepts a listing or acts as a broker if the purchaser obtains non-VA financing or if any appraisal or inspection made by him or her pursuant to a VA assignment is not used in a transaction involving VA financing. Furthermore, the rule does not apply to the sale of a property by a veteran-obligor under terms whereby the transferee assumes an outstanding guaranteed, insured or direct loan.

e. The Information contained in subparagraph a above shall be made available to all fee appraisers and compliance inspectors in connection with the execution of VA Form 26–6684. Upon initial designation and at intervals of not less than each 12 calendar months, each fee appraiser and compliance inspector will be required to complete and return such statement to the appropriate regional office.

f. When it is disclosed that a fee appraiser or a compliance inspector has any private pursuits or interests, such disclosure shall be carefully evaluated and investigated, if such action is deemed necessary. If any private pursuit or interest disclosed conflicts with VA standards, the particular fee appraiser or compliance inspector shall be promptly informed and immediate appropriate action taken; e.g., withdrawing pending assignments or withholding further assignments. In any case in which evidence is obtained indicating a contravention of VA standards, it will be determined whether or not the facts warrant removal of the appraiser or compliance inspector. If so, removal action shall be initiated as quickly as possible.

9. *Disciplinary Actions.* a. Assignments for a period up to 2 months' duration may be withheld by the Chief, Construction and Valuation Section for cause. Notice of such action will be given in writing to the individual and will specify the reasons for the action. The fee person will be notified that written appeal from the action can be made to the Fee Roster Committee. Appeals must be accompanied by specific evidence showing the action by VA was not justified. Assignments will not be made during the appeal process. The Fee Roster Committee must consider the appeal within 2 weeks, make its determination as to whether the action should be sustained, modified or rescinded and notify the individual in writing.

b. Permanent removal of fee personnel may be made by the Fee Roster Committee for cause. The individual will be notified in writing of the action and will be given the reason(s) which formed the basis for the action. The individual will also be advised that if he/she believes the action is not warranted, he/she may ask to appear before the Fee Roster Committee and present evidence to show the action was not warranted or may submit such evidence in writing or both. If an appearance before the Committee is requested, the Loan Guaranty Officer will arrange for a mutually acceptable time and place. The proceedings of the Committee will be informal. Within 2 weeks from completion of the hearing and/or receipt of the written material, the Committee will make its determination as to whether the action should be sustained, modified or rescinded. Written notice of its determination will be given the individual promptly. Such notice must include a statement that if the individual still believes the action was not warranted, he/she may, within 30 days, submit a written request to the Station Director for review and reconsideration of the action.

c. Upon receipt by the Station Director of an appeal, all relevant material concerning the matter will be furnished to the Director by the Fee Roster Committee. The Director will review the entire matter and notify the individual and the Committee of his/her decision as to whether the decision of the Committee is sustained, modified or rescinded.

d. If removal action is taken, Central Office (262) will be notified.

10. When fee personnel are removed from rosters for reasons other than cause; i.e., voluntary resignation, death, unavailability for assignments, etc., the reasons will be recorded in the individual's fee personnel folder. This folder will then be placed in the "inactive file" (see par. 7a). No report to Central Office is necessary in such cases.

11. Rescission: DVB Circular 25–66–6.

Dorothy L. Starbuck,

Chief Benefits Director.

[FR Doc. 80–8326 Filed 3–18–80; 8:45 am]

BILLING CODE 8320–01–M

Medical Research Service Merit Review Boards; Charter Renewals

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), the Veterans Administration announces the renewal of the following Merit Review Boards in designated medical specialties for the period February 4, 1980 through February 4, 1982:

Merit Review Board for Basic Science Programs
Merit Review Board for Behavioral Science Programs
Merit Review Board for Cardiovascular Programs
Merit Review Board for Clinical Pharmacology, Alcoholism and Drug Dependence Programs
Merit Review Board for Endocrinology Programs
Merit Review Board for Gastroenterology Programs
Merit Review Board for Hematology Programs
Merit Review Board for Immunology Programs
Merit Review Board for Infectious Disease Programs
Merit Review Board for Nephrology Programs
Merit Review Board for Neurobiology Programs
Merit Review Board for Oncology Programs
Merit Review Board for Respiration Programs
Merit Review Board for Surgery Programs

New charters for these committees have been filed in accordance with sections 9 and 14 of Pub. L. 92–463.

Dated: March 14, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-8302 Filed 3-18-80; 8:45 am]

BILLING CODE 8320-01-M

Wage Committee; Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, April 3, 1980
Thursday, April 17, 1980
Thursday, May 1, 1980
Thursday, May 15, 1980
Thursday, May 29, 1980
Thursday, June 12, 1980
Thursday, June 26, 1980

The meetings will convene at 2:30 p.m. and will be held in Room 1063, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC. 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552(b)(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC. 20420.

Dated: March 14, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-8303 Filed 3-18-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 55
Wednesday, March 19, 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

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, March 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–543–80 Filed 3–17–80; 1:19 pm]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:45 a.m., Friday, March 21, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement and Judicial Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–552–80 Filed 3–17–80; 3:59 pm]

BILLING CODE 6351–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 15363; March 10, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 12, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

FR–9. EL79–20, Buckeye Power, Inc.

Kenneth F. Plumb,

Secretary.

[S–539–80 Filed 3–17–80; 10:54 am]

BILLING CODE 6450–85–M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 17111; March 17, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 19, 1980.

CHANGE IN THE MEETING: The following items have been added:

Item Number, Docket Number and Company

ER–9. ER79–370, Consolidated Edison Co.
ER–10. EL79–26 and ER79–600, Central Power & Light Co.
M–1. RM79–49, Calculation of Cash Working Capital Allowance for Electric Utilities.
M–8. RM79–44, High Cost Gas.

Kenneth F. Plumb,

Secretary.

[S–540–80 Filed 3–17–80; 10:54 am]

BILLING CODE 6450–85–M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 17111; March 17, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 19, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item number, Docket number and Company

CAM–3. RM80–20, Report of Gas Supply and Requirements: FERC Form No. 16.

Kenneth F. Plumb,

Secretary.

[S–545–80 Filed 3–17–80; 3:00 pm]

BILLING CODE 6450–85–M

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 16664; March 14, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., March 20, 1980.

CHANGES IN THE MEETING: Addition of the following items to the open session:

9. Agreement No. 9973–6: Extension and restatement of Johnson Scanstar Combined Service Agreement.
10. Application for an extension of continuing duration of Agreement No. 10064: Equal access agreement between Flota Mercante Grancolombiana S.A. and Lykes Bros. Steamship Co., Inc.

Addition of the following item to the closed session:

3. Docket No. 76–11—IN RE: Agreements 150–DR–7 and 3103 DR–7—Petition for reconsideration of Commission decision.

[S–537–80 Filed 3–14–80; 4:22 pm]

BILLING CODE 6730–01–M

7

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 16392; March 13, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., March 19, 1980.

CHANGE IN THE MEETING: The time of the meeting is changed to 10 a.m.

[S–542–80 Filed 3–17–80; 1:09 pm]

BILLING CODE 6730–01–M

8

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 16664; March 14, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. March 20, 1980.

CHANGE IN THE MEETING: Addition of the following item to the open session: 11. Draft Orders in Informal Docket No. 550(I): Interpur, A Division of Dart Industries, Inc. v. Barber Blue Sea Line and 646(I): SCM Corporation v. Compania Sud-Americana De Vapores—Review of decisions of Settlement Officers.

[S–546–80 Filed 3–17–80; 3:11 pm]

BILLING CODE 6730–01–M

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., March 25, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Report on Notation Items disposed of during February 1980.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during February 1980.
3. Report of the Secretary on Applications for Admission to Practice approved during February 1980, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during February 1980.
5. International Cargo Service, Inc.—Application for independent ocean freight forwarder license.
6. Agreement No. 10186–3: Modification of a space chartering agreement between Orient Overseas Container Line, Inc. and Korea Shipping Corporation to provide for space chartering to one another and for other purposes.
7. Petition for Reconsideration of a portion of Order of Conditional Approval of Agreement No. 10012–4.
8. Docket No. 79–93: Security for the Protection of the Public: Increase in Maximum Amount of Required Evidence of Financial Responsibility—Review of comments.
9. Informal Docket No. 667(I): *FMC Corporation* v. *Sea-Land Service, Inc.*—Review of Settlement Officer's decision.
10. Informal Docket No. 688(I): *Dow Corning Corporation* v. *Sea-Land Service, Inc.*—Review of Settlement Officer's decision.
11. Docket No. 79–84: Matson Navigation Company, Proposed 5.90 percent Bunker Surcharge Increase in Tariffs FMC Nos. 164, 165, 166 and 167—Petition of Oscar Mayer and Co. for reopening and reconsideration.

Portion closed to the public:

1. Docket No. 79–75: Interpool, Ltd., Itel Corporation (Container Division), Trans Ocean Leasing Corporation v. Pacific Westbound Conference, Far East Conference, and Member Lines—Review of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–551–80 Filed 3–17–80; 3:52 pm]

BILLING CODE 6730–01–M

10

FEDERAL RESERVE SYSTEM. Board of Governors.

TIME AND DATE: 10 a.m., Monday, March 24, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: March 14, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–544–80 Filed 3–17–80; 2:12 pm]

BILLING CODE 6210–01–M

11

[USITC SE–80–15A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 16073; March 12, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, March 20, 1980.

CHANGES IN THE MEETING: By action jacket SE–80–9, approved March 14, 1980, Commissioners Bedell, Alberger, Moore, Stern, and Calhoun determined that Commission business requires the rescheduling of the meeting of March 20, 1980, to 2:00 p.m., 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–538–80 Filed 3–17–80; 9:06 am]

BILLING CODE 7020–02–M

12

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, March 21, 1980.

PLACE: Hearing Room A, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Oral argument.

MATTER TO BE DISCUSSED: Investigation and Suspension Docket No. 9222 [1] Conrail Surcharge on Pulpboard.

[1] The oral argument also embraces all the following ConRail surcharge proceedings: I&S No. 9215 ConRail Surcharge on Paper From Mehoopany, Pa., I&S No. 9215 (Sub-No. 1) ConRail Surcharge on Paper From Mehoopany, Pa., September 1979, I&S No. 9220 Non-Application of ConRail, Surcharge, Via The Family Lines System, I&S No. 9227 Surcharge on Iron or Steel, ConRail, October 1979, I&S No. 9229 ConRail Surcharge on Lime, I&S No. 9230 Surcharge on Agricultural Machinery, ConRail, October 1979, I&S No. 9231 Surcharge on Petroleum Coke, ConRail, October 1979, I&S No. 9232 Surcharge on Malt Liquor, ConRail, October 1979, I&S No. 9233 Surcharge on Rubber Tires, ConRail, October 1979, I&S No. 9234 Surcharge on Furniture, ConRail, October 1979, I&S No. 9235 Surcharge on Lumber, ConRail, October 1979, I&S No. 9236 Surcharge on Iron or Steel Articles, ConRail, October 1979, I&S No. 9237 Surcharge on Rosin, Conrail, October 1979, I&S No. 9238 Surcharge on Scrap Tin or Terne Plate, ConRail, October 1979, I&S No. 9238 (Sub-No. 1) Surcharge on Scrap Tin or Terne Plate, ConRail, November 1979, I&S No. 9239 Surcharge on Cotton, Conrail, October, 1979, I&S No. 9240 Surcharge on Motor Vehicles, Conrail, October 1979, I&S No. 9241 Surcharge on Coke (Direct Product of Coal), ConRail, November 1979, No. 37284 Surcharge on Wine, ConRail, October 1979, I&S No. 9244 (Sub-No. 1) Carrier Exceptions to ConRail Surcharge on Wine, TCFB, I&S No. 9245 Surcharge on Wallboard, Lockport, NY, to East, South, and West, Conrail, December, 1979, I&S No. 9248 Surcharge on Pulpboard, Southwest to Official Territory, ConRail, January 1980, I&S No. 9234 (Sub.-No. 1) Surcharge on Furniture, ConRail, February and March 1980.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, telephone: (202) 275–7252.

March 12, 1980.

[S–541–80 Filed 3–17–80; 1:09 pm]

BILLING CODE 7035–01–M

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday, March 21, 1980 (additional item).

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

11 a.m.

1. Meeting with Citizen's Group on TMI Cleanup (approximately 1 hour, public meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

March 14, 1980.

[S–547–80 Filed 3–17–80; 3:11 pm]

BILLING CODE 7590–01–M

14

PAROLE COMMISSION.

TIME AND DATE: 9 a.m., Thursday, March 20, 1980.

PLACE: Room 818, 320 First Street NW., Washington, D.C.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 17 cases decided by the National Commissioners pursuant to a reference under 28 CFR § 2.17 and appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are

contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst (202) 724–3094, 320 First Street NW., Washington, D.C.

[S-550-80 Filed 3-17-80; 3:36 pm]

BILLING CODE 4410-01-M

federal register

Wednesday
March 19, 1980

Part II

Department of the Interior

Bureau of Land Management

Proposed Guidance for National Environmental Policy Act (NEPA) Implementing Procedures

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Guidance for Compliance With the National Environmental Policy Act (NEPA)

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed guidance for NEPA Implementing Procedures.

SUMMARY: On November 29, 1978, the Council on Environmental Quality (CEQ) published, at 43 FR 55978–56007 (40 CFR Parts 1500–1508), its final regulations for implementing the procedural provisions of NEPA. The Department of the Interior, on July 10, 1979, published, at 44 FR 40436–40443, draft Departmental Manual guidance for compliance with the CEQ's NEPA Regulations. The final form of this Departmental Manual is undergoing Secretarial-level review and approval and its publication in the **Federal Register** is imminent. This notice is to advise the public of draft Bureau of Land Management guidance which, in combination with guidance in the Departmental Manual, will be used for NEPA implementation when tested, revised, and published in final form.

DATES: This proposed guidance for compliance with NEPA is effective (for new environmental analyses) as of March 19, 1980 and will remain in effect until a final form is published which reflects the results of field-testing and public comment. Comments on the proposed guidance will be accepted until May 1, 1980.

ADDRESS: Comments should be sent to: Director (202), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce L. Bandurski, (202) 343–7417.

SUPPLEMENTAL INFORMATION: On November 19, 1979, the Assistant Secretary, Land and Water Resources, of the Department of the Interior, delegated to the Director of the Bureau of Land Management certain responsibilities and authority for implementation of the National Environmental Policy Act of 1969, as amended. The following guidance, developed pursuant to Secretarial decision of June 11, 1979, proposes a system by which the Bureau of Land Management (BLM) would carry out these delegated responsibilities.

This system for NEPA implementation had its beginnings in 1977. That year two BLM initiatives were taken to more effectively implement NEPA and related environmental law. The first of these initiatives was dubbed "EcolInt"; it involved an interdisciplinary group, constituted to advance the Bureau's ability in identifying and describing ecological interrelationships pursuant to NEPA sections 102(2)(A) and 102(2)(H). The second initiative was a Bureauwide fact-finding effort. It was initiated September 29, 1977, to find ways of increasing the effectiveness, efficiency, and quality of the NEPA process in BLM.

The system which grew from these endeavors reflects a decade of firsthand experience in applying NEPA to management of public lands and the outer continental shelf. It also reflects concerns of an interested public which desires agency consideration of a spectrum of environmental values. And, of course, it comprises guidance that is a consistent subset of CEQ's NEPA Regulations. The principal aims of this system are: (1) to produce better decisions which further the national policy to enhance the quality of the human environment; (2) to enrich the understanding of the ecological systems and natural resources important to the Nation; (3) to prevent, eliminate, or minimize damage to the environment and ecosphere; (4) to reduce paperwork and to reduce delays in addressing issues which are ripe for decision.

The proposed environmental protection and enhancement system will be presented in a series of ten "guidebooks" written to facilitate BLM's use of the NEPA process.[1] The guidebooks' purpose is to give specific guidance to Bureau personnel who must apply the NEPA process in day-to-day operations.

The first two guidebooks in the series are published as proposed guidance to be field-tested and to elicit public comment during this testing period. They are printed, in full, following this supplementary information. If these two guidebooks prove useful and feasible, development of the remaining guidebooks in the proposed series will begin in earnest.

The "preamble" to the BLM 1790–1799 guidebook series comprises two articles; these were presented in draft to a Bureauwide environmental analysis workshop in 1978. This preamble provides a full context for any reader's understanding of the guidebooks which follow. Familiarity with the essence of this preamble and with the overview of BLM's environmental protection and enhancement system (Guidebook 1790) will enable readers to better understand each of the guidebooks in this series.

The preamble's articles are to be included as introductory material in a set of looseleaf binders containing the prospective guidebooks. Single copies of these preamble articles, in their entirety, are available upon request.

Dated: March 10, 1980.

Ed Hastey,

Associate Director.

[1] The last of these, Guidebook 1799, is not yet specified as to topic. If the glossary of terms being developed for Guidebook 1790 becomes voluminous, an entire Guidebook (1799) may be devoted to terminology for the guidebook series.

Guidebook Section 1790

Environmental Protection and Enchancement System

.01 Purpose of Guidebook Section 1790
.02 Objectives
.03 Authority
.04 Responsibility
.05 Definitions (see Glossary of Terms)
.06 Policy
.07 Principles
.08 Program Decision Points
.09 System Overview and Coordination
.1 Environmental Analysis and Decisionmaking Process
.2 Environmental Documents
.3 Lead Agency (or Sub-Unit) Determination and Pre-Decision Referrals
.4 Decision Criteria, Records, and Implementation
.5 Monitoring
.6 Ecosystem Modeling
.7 Review of Non-BLM Environmental Documents
.8 Environmental Knowledge and Awareness
.9 [Reserved]

.01 *Purpose of Guidebook Section 1790.* This section introduces the BLM's Environmental Protection and Enhancement System. The system provides means by which Council on Environmental Quality (CEQ) regulations for the National Environmental Policy Act of 1969 (NEPA) are incorporated into BLM's planning and decisionmaking. Specifically, the Environmental Protection and Enhancement System is designed to comply with the requirements of Section 2 and Title I of NEPA. The system applies to all programs, branches, and offices of the BLM.

.02 *Objectives.* "The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out the policy. Section 102(2) contains action-forcing provisions to make sure that Federal agencies act according to the letter and spirit of the Act * * *

"* * * it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster

excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment" (40 CFR 1500.1).

The central objective is to establish an Environmental Protection and Enhancement System through which the Bureau will strive to:

1. Prevent, eliminate, or minimize damage to the environment and ecosphere by:

a. Encouraging productive and enjoyable harmony between man and his environment,

b. Identifying and analyzing emergent properties of whole systems that relate to the health and welfare of man, and

c. Providing land managers with information about stress points in the ecosystem in order for them to better balance the consideration of short-term uses of the environment and long-term productivity;

2. Enrich the understanding of ecological systems and natural resources important to the Nation by:

a. Detecting gaps and defects in our environmental awareness and understanding of system interrelationships, and

b. Correcting those gaps and defects by systematic interdisciplinary analysis and synthesis;

3. Reduce paperwork in documenting environmental analysis and reduce delay in reaching decisions; and

4. Produce better decisions in seeking and attaining clearly stated environmental goals.

.03 *Authority.* The BLM is authorized and directed by NEPA to carry out its programs in ways that will create and maintain conditions under which man and nature can exist in productive harmony and fulfill social and economic needs of present and future generations of Americans.

Several basic authorities require a systematic, interdisciplinary approach to planning and decisionmaking. These include:

A. The National Environmental Policy Act of 1969, as amended (and related treaties, conventions, agreements, legislation, and regulations).

B. The Environmental Quality Improvement Act of 1970, as amended.

C. Section 309 of the Clean Air Act, as amended.

D. Executive Order 11514, as amended by Executive Order 11991, Protection and Enhancement of the Environment through Regulations Designed to Make the Environmental Impact Statement Process more Useful to Decisionmakers and the Public.

E. The Federal Land Policy and Management Act of 1976.

F. The Outer Continental Shelf Lands Act as amended.

G. The Coastal Zone Management Act.

H. Department of the Interior Departmental Manual, Part 135 (135 DM 3.1) and Part 516.

I. Executive Order 12114, Environmental Effects Abroad of Major Federal Actions.

.04 *Responsibility.* The BLM, as a Federal agency sub-unit, has an active and affirmative responsibility to protect the public interest as expressed in the Bureau's statutory mandates and those mandates of the Department that have been delegated. These responsibilities cover environmental resources and values associated with management of uplands, the coastal zone, and the outer continental shelf.

A. The Director of BLM is responsible for overall direction of the Environmental Protection and Enhancement System. Appendix 5 of Part 516 DM 6, Department of the Interior Departmental Manual, specifies those environmental management responsibilities that have been delegated to various offices within the BLM.

B. The Branch of Environmental Coordination (within the Office of Planning, Inventory, and Environmental Coordination) serves as the Bureau focal point for all NEPA matters and provides advice to the Director and other Bureau decisionmakers on NEPA related activities. The Branch:

1. Monitors Bureauwide compliance with NEPA.

2. Develops policies and guidelines for ensuring that technical requirements of NEPA are included in Bureauwide planning and inventory processes.

3. Establishes and monitors procedures and standards for conducting environmental analyses and preparing environmental documents.

4. Reviews for NEPA compliance, all environmental documents prepared for approval at the Directorate level or above.

5. Serves as liaison with the Departmental Office of Environmental Project Review.

6. Receives, distributes, and reviews environmental documents referred by other Bureaus and Federal agencies; alerts BLM decisionmakers to documents that raise critical issues; and ensures Bureau environmental comments on them.

7. Provides NEPA-related assistance and guidance to all Headquarters Office and field elements of the Bureau for environmental document preparation and review.

The Branch, pursuant to 40 CFR 1506.6(e), receives (from other BLM offices) information useful for the production of status reports on elements of the NEPA process. It produces, for Bureau and Departmental attention, a periodic status report on environmental impact statements for which BLM has lead responsibility and for which BLM is a cooperating agency. Information for this report is received from Bureau offices having responsibility for particular environmental analyses and for providing particulars to interested persons concerning those analyses.

General statements concerning the Branch's delegated responsibilities for program development, technical development and service, administrative functions, and program operations are found in BLM Manual Section 1211.

.05 *Definitions.* See Glossary of Terms, Appendix B.

.06 *Policy.* The Environmental Protection and Enhancement System is used by BLM managers to carry out the following BLM policy:

A. Pursue the goals of NEPA as set forth in Section 101(b) of the Act (Appendix A).

The requirement to maintain and enhance long-term productivity and quality of the environment takes precedence over local, short-term usage. This policy recognizes the responsibility to future generations of those presently controlling the development of natural resources and the modification of the living landscape.

Although the influence of the U.S. policy will be limited outside of its own borders, the global character of ecological relationships must be the guide for domestic activities.

In meeting the objectives of environmental management, it will be necessary to seek constructive compromise and resolutely preserve future options.

B. Seek out, identify, adapt, and/or develop the best environmental analysis and management technology practicable. This must ensure a systematic, initerdisciplinary approach for integrating the natural sciences, the social sciences, and the environmental design arts within an ecosystem concept. It must also ensure the use of that technology for planning and decisionmaking.

C. Include methods and procedures for ensuring that presently unquantified environmental amenities and values will be given appropriate consideration in decisionmaking. It is BLM's policy that in environmental analysis, values that are essential for maintenance of living

systems (functional values) are to be given greater weight than values that are not essential to life support. Likewise, society's normative values (i.e., social norms that serve to guide, regulate, or control proper and acceptable social behavior) must be given greater weight in environmental analysis than values that represent only preferences of individuals, groups, or organizations (preference values).

D. Cooperate with States, counties, municipalities, institutions, and individuals in sharing advice and information useful in restoring, maintaining and enhancing the quality of the environment.

E. Recognize the worldwide and long-range character of environmental problems. Where consistent with foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment.

F. Develop alternatives that will better meet the public interest when an action proposed by an outside applicant does not.

.07 *Principles.* The preamble to this guidebook contains the principles on which this Environmental Protection and Enhancement System is based.

.08 *Program Decision Points.* Appendix 5 of Part 516 DM 6, Department of Interior Manual, specifies the program decision points.

.09 *System Overview and Coordination.* The BLM's Environmental Protection and Enhancement System enables BLM managers to bring together and integrate sound scientific thinking with practical applications of that thinking. The system encompasses many deverse procedures within a unified conceptual framework for making decisions affecting the quality of the environment.

Techniques for implementing the Environmental Protection and Enhancement System are described in the procedural sections of this guidebook series, Sections 1791 through 1798. These techniques provide a means for organizing and channeling professional expertise into more efficient and effective analyses and decisions.

A. *Description of the System.* The Environmental Protection and Enhancement System is made up of several components described in Sections .1 through .8. Chief among these is the environmental analysis and decisionmaking process diagrammed in Illustration 1. This process was developed specifically to comply with NEPA and the CEQ regulations on NEPA.

B. *Overview of the Environmental Analysis and Decisionmaking Process.* The environmental analysis and decisionmaking process consists of eight stages. Stages are expanded into major steps, decision points, and feedback loops (Illustration 1). Public involvement, mitigation, and monitoring are considered at several steps throughout the process. For a complete description, see Guidebook Section 1791.

1. Stage 1—Management Screen. The purpose of the management screen is to determine whether the proposal has enough detail to make a quick management decision or whether further analysis is necessary.

Box 1.1—Provide Pre-proposal Assistance and Guidance. The BLM is required to advise non-Federal applicants of studies or other information that might be required for reaching a decision.

Box 1.2—Screen Proposal. In addition to assisting and guiding the development of a proposal, the management screen provides a quick review of proposals for the following decisions.

Decision Point 1A—EIS Required by Policy? Is the proposal one that automatically requires an environmental impact statement (EIS) by BLM policy? This includes resource management plans, EIS's required by court decisions, and EIS's mandated by the Secretary. If an EIS is mandated by policy, an EIS is begun with preliminary analysis (Stage 2).

Decision Point 1B—Categorical Exclusion? If an EIS is not required by policy, the screen checks to see whether the proposal can be categorically excluded from further environmental analysis. If the proposal can be categorically excluded, a decision approving or disapproving the action can be made (Box 1.3). If not, a preliminary analysis is begun (Stage 2).

Box 1.3—Document the Categorical Exclusion. Document the categorical exclusion and decide whether to approve or disapprove the action (Decision Point 7A).

2. Stage 2—Preliminary Analysis. The purposes of preliminary analysis are (1) to determine whether alternatives have been analyzed elsewhere for environmental impacts; (2) to identify similar actions that have been analyzed in the same geographic area or in a similar environmental setting; and (3) for an EIS, to review existing information for a notice of intent to prepare an EIS (NOI).

Box 2.1—Preliminary Scoping. The manager appoints a team to identify potentially significant issues and to involve the public, as necessary. Another part of preliminary scoping is to review the proposal and existing data to reach the following decisions:

Decision Point 2A—Detail Sufficient? If the proposal is stated clearly and in enough detail to continue analysis, the team proceeds to decision point 2B. If not, the proposal is returned to its originator with specific information requirements needed to refine the proposal and continue analysis (Box 2.3).

Decision Point 2B—Significant Impacts Likely? The team uses several factors to determine whether significant impacts are likely to result from the proposal. If they are, preliminary analysis proceeds to decision point 2C. If not, it goes into an environmental assessment (EA) mode (Decision Point 2D).

Decision Point 2C—Do EIS? If significant impacts are likely to occur, the manager decides whether to eliminate or reduce the likelihood of significant impacts by refining the proposal (Box 2.3), or whether to continue analysis in an EIS mode (Decision Point 2E).

Decision Point 2D—Previous Considerations Adequate? If earlier considerations of similar proposals are still current and adequate for reaching a decision, the interdisciplinary team recommends an action to the decisionmaker (Box 2.2). If not, the team continues analysis for an EA (Stage 4).

Box 2.2—Make Decision—Go to 7A. If previous considerations are adequate, the decisionmaker can approve or disapprove the proposal (Stage 7) and document that decision.

Decision Point 2E—Previous EIS(s) Adequate? If the proposal has already been adequately covered in one or more previous EIS's, the manager can approve or disapprove the proposal (Stage 7) and document that dicision, referencing the earlier environmental documents in the record of decision. If not, an EIS is begun with an NOI (Box 3.1).

Box 2.3—Refine Proposal. The analysis team must specify what additional information is necessary for continuing environmental analysis. The proposal must be refined sufficiently to continue analysis and reach decisions.

3. Stage 3—Scoping and Planning the Analysis. Analysis for an EIS begins with scoping (1) to determine which issues or impacts arising from the proposal might be significant, and (2) to ensure that analysis identifies and addresses net impacts of the proposal. This is done by planning the analysis to fit the needs.

Box 3.1—Notice of Intent for an EIS. Analysis for an EIS can be started only

with the approval of the Director or his delegated representative, and after publication of an NOI in the Federal Register.

Box 3.2—Scope the EIS. Scoping is a formal process for involving the public to help (1) plan the environmental analysis; (2) identify reasonable alternatives; and (3) identify significant issues arising from alternatives.

Box 3.3—Preparation Plan. The preparation plan for an EIS focuses on significant issues raised during scoping and designs analysis around those issues.

4. Stage 4—Analyzing Information Needs. The purposes of this stage are (1) to determine information needs; (2) to screen and organize existing information; and (3) to get additional information, when necessary.

Box 4.1—Screen and Organize Existing Information. Information needs are determined by: (1) extent to which alternatives are likely to affect the environment, and (2) sensitivity of key ecosystem components and processes likely to be affected. Only those details important to the analysis are included. If these requirements are met, the interdisciplinary team can proceed with analyzing environmental consequences (Stage 5).

Decision Point 4A—Information Adequate? If any new concerns have been identified, the EA analysis must re-evaluate the information base. For an EIS, the same procedures are followed, but generally they are more detailed and require public involvement. If information is adequate, the process continues to stage 5.

Decision Point 4B—Fieldwork Necessary? If information is not adequate to analyze environmental impacts, fieldwork may be necessary (Box 4.2), or the analysis may require only a more thorough search and review of existing information (Box 4.1).

Box 4.2—Design and Complete Fieldwork. The purpose of fieldwork is to gether only enough information to complete analysis. The extent of field studies can vary tremendously, depending on information needs.

Box 4.3—Environmental Information System. The environmental information system will be more than an information storage and retrieval bank. The system will include bibliographies of environmental documents and records of decisions, and information and data on ecosystems from previous environmental analyses, field studies (Box 4.2), monitoring (Box 8.4), and other sources (Box 4.4).

Box 4.4—Information from Other Sources. As part of developing an environmental information system, it will be necessary to update the system with information and data from other sources. This box represents those activities, including input from continued public involvement (Box 4.5).

Box 4.5—Continued Public Involvement. BLM interacts with the public throughout the process. The magnitude of a proposal and its impacts will determine how much public involvement is needed.

5. Stage 5—Analyzing Environmental Consequences. The purposes of analyzing environmental consequences are (1) to analyze impacts for significance; (2) to develop new alternatives; (3) to develop measures to mitigate impacts, where possible, (4) to plan monitoring; and (5) to improve understanding of environmental systems.

Box 5.1—Analyze Impacts. Impact analysis works in conjunction with stage 4 to identify real issues and discover potentially significant environmental impacts. The analysis depends on working records developed in early stages. These records focus analysis on impacts and issues identified as major or potentially significant.

Decision Point 5A—Information Adequate? The interdisciplinary team must determine whether information is adequate to permit reaching a decision about impacts. If not, further review or fieldwork may be required (Decision Point 4B). If so, the team makes the following decisions:

Decision Point 5B—Net Impacts Significant? If net impacts are not significant, the team prepares an EA and FONSI (Box 5.2).

Decision Point 5C—Impacts Adequately Addressed? If significant impacts have been considered and addressed adequately, either by mitigation plans, by revisions in the proposal, or by identifying potential impacts, the team finishes analysis and drafts an EIS (Box 5.2). If not, the manager considers whether to reject the proposal or have it refined (Decision Point 5D).

Decision Point 5D—Reject Proposal? After the analysis, because of severe environmental impacts, a manager may wish to disapprove a proposal without preparing an environmental document. If so, he makes that decision (Stage 7). If the manager decides that the proposal should be further refined, he returns it (Box 2.3).

Box 5.2—Draft Environmental Document(s). An EA may consist primarily of working records developed during analysis. A FONSI is then written that either summarizes the EA or includes the EA as an attachment. For an EIS, working records from analysis can be used to support findings and conclusions in the EIS.

6. Stage 6—Public Comment and BLM Response. The purposes of seeking and responding to public comment are (1) to seek comment on BLM's analysis, and (2) to arrive at equitable decisions, based in part on that comment.

Box 6.1—Circulate Environmental Documents and Respond to Public Comment. Requirements for filing and circulating environmental documents vary. BLM response will be determined by the nature of public comment.

Decision Point 6A—Response to Public Adequate? Responding to public comment might be a matter of minor revisions before a decision is reached, in which case the process continues to stage 7. However, if a more and more detailed response is required, parts of the analysis may need to be repeated (Box 6.2).

Box 6.2—Revise Analysis and Environmental Documents, as Necessary. This procedure "feeds back" to previous stages in the process. Public review may require a decisionmaker to re-evaluate the conclusions of an environmental document and revise an EA or EIS.

7. Stage 7—Reaching and Recording Decision. The purpose of this stage is to identify the point at which a manager must reach and record a decision, based on the analysis. The decision includes any necessary mitigation and monitoring plans that will be implemented.

Decision Point 7A—Approve Proposal? This decision point occurs after determining that the proposal is categorically excluded (Box 1.3), after reviewing previous analyses (Box 2.2), or after completing a new environmental analysis. The manager must record approval or disapproval (Boxes 7.1 or 7.2).

Box 7.1—Record Approval. For an EA and FONSI, the decision to proceed can be a simple cover letter with EA and FONSI attached. A more formal procedure is required for a record of decision in cases requiring EIS's.

Box 7.2—Record Disapproval. The principles for recording a decision to approve a proposal also apply to recording disapproval of a proposal.

8. Stage 8—Implementing the Decision. The purposes of implementing the decision (including any necessary mitigation and monitoring) are (1) to complete the action while minimizing adverse environmental effects, and (2) to provide information for future environmental analyses.

Box 8.1—Proceed with Implementation and Initial-Phase Monitoring. Establish a schedule for implementing the action and, where

necessary, a schedule for monitoring. Initial phases of the action can be such activities as clearing and grading, excavating, construction, or similar activities that are short-term as opposed to longer-term operational or environmental recovery and rehabilitation phases.

Decision Point 8A—Mitigation Adequate? Determine whether mitigation measures have been implemented and are working as prescribed. Information gained here may help develop or modify a long-term monitoring program (Box 8.3). Information about the adequacy of mitigation will be used to improve future environmental analyses and decisions (Box 8.4).

Box 8.2—Modify Proposal—Go to 2.3. If mitigation proves inadequate during initial phases, or if significant, unexpected long-term impacts occur, the action may be modified to mitigate or rehabilitate unforeseen impacts. The extent to which the BLM can modify a decision depends on whether the proposal originated inside or outside the Bureau and whether a contract contains stipulations that permit modifications. It also depends on enforcement authority and availability of funds and manpower.

Box 8.3—Continue review and monitoring. After initial phases of an action are complete, environmental impacts may be reviewed periodically to determine whether further mitigation and/or monitoring are required. This information could lead to modifying the action (Box 8.2), or it could be stored in the environmental information system (Box 8.4), or both.

Box 8.4—Store Impact Information—Go to 4.3. Useful information on impacts, mitigation measures, and monitoring will be stored in the environmental information system (Box 4.3) for use in future environmental analyses.

C. *Relationships Between the Environmental Protection and Enhancement System and Other BLM Functional and Management Systems.* The EPES is described as a complete system. It is used *in* planning and decisionmaking as required by NEPA Section 102(2)(A). Other BLM functional and management systems also impact BLM decisions. The EPES is designed to link with those systems at key planning and decisionmaking points to ensure that plans and decisions are made in full compliance with NEPA. In some cases the requirements of the EPES will be met by steps in these other systems and joint documentation is possible. There is no intent to duplicate other systems; there is intent to prescribe standards to be met at specific steps in the analysis and decisionmaking process

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The following sections briefly describe other guidebooks in the 1790–1799 series.

.1 *Environmental Analysis and Decisionmaking Process.* Guidebook 1791 describes operational procedures for the environmental analysis and decisionmaking process.

.2 *Environmental Documents.* Guidebook 1792 describes the procedures by which environmental documents are prepared.

.3 *Lead Agency (Or Sub-Unit) Determination and Predecision Referrals.* Guidebook 1793 describes how to determine lead and cooperating agencies and their respective responsibilities, including referrals.

.4 *Decision Criteria, Records, and Implementation.* Guidebook 1794 contains three major sections. The first describes criteria for assisting decisionmakers in attaining NEPA goals and other environmental values. The second provides methods for documenting differnt types of environmental decisions during scoping and analysis. The third discusses when implementation can legally begin and how implementation can be modified, when necessary, due to unforeseen serious environmental impacts.

.5 *Monitoring.* Guidebook 1795 identifies different types of monitoring and how monitoring is used for quality assurance and environmental protection and enhancement.

.6 *Ecosystem Modeling.* Guidebook 1796 reviews modeling procedures currently used for environmental analysis, protection, and enhancement. It develops procedures for computer-based optimization, simulation, and other modeling techniques that can be used in conjunction with the BLM strategic information system.

.7 *Review of Non-BLM Environmental Documents.* Guidebook 1797 will establish (1) policies regarding BLM's review of other agency environmental documents, (2) procedures for dealing with the Department Office that coordinates reviews and procedures governing the availability of review comments.

.8 *Environmental Knowledge and Awareness.* Guidebook 1798 will develop procedures for establising and operating an "environmental experience bank" for filing, storing, retrieving, disseminating, and sharing data and information in environmental documents.

.9 [Reserved]

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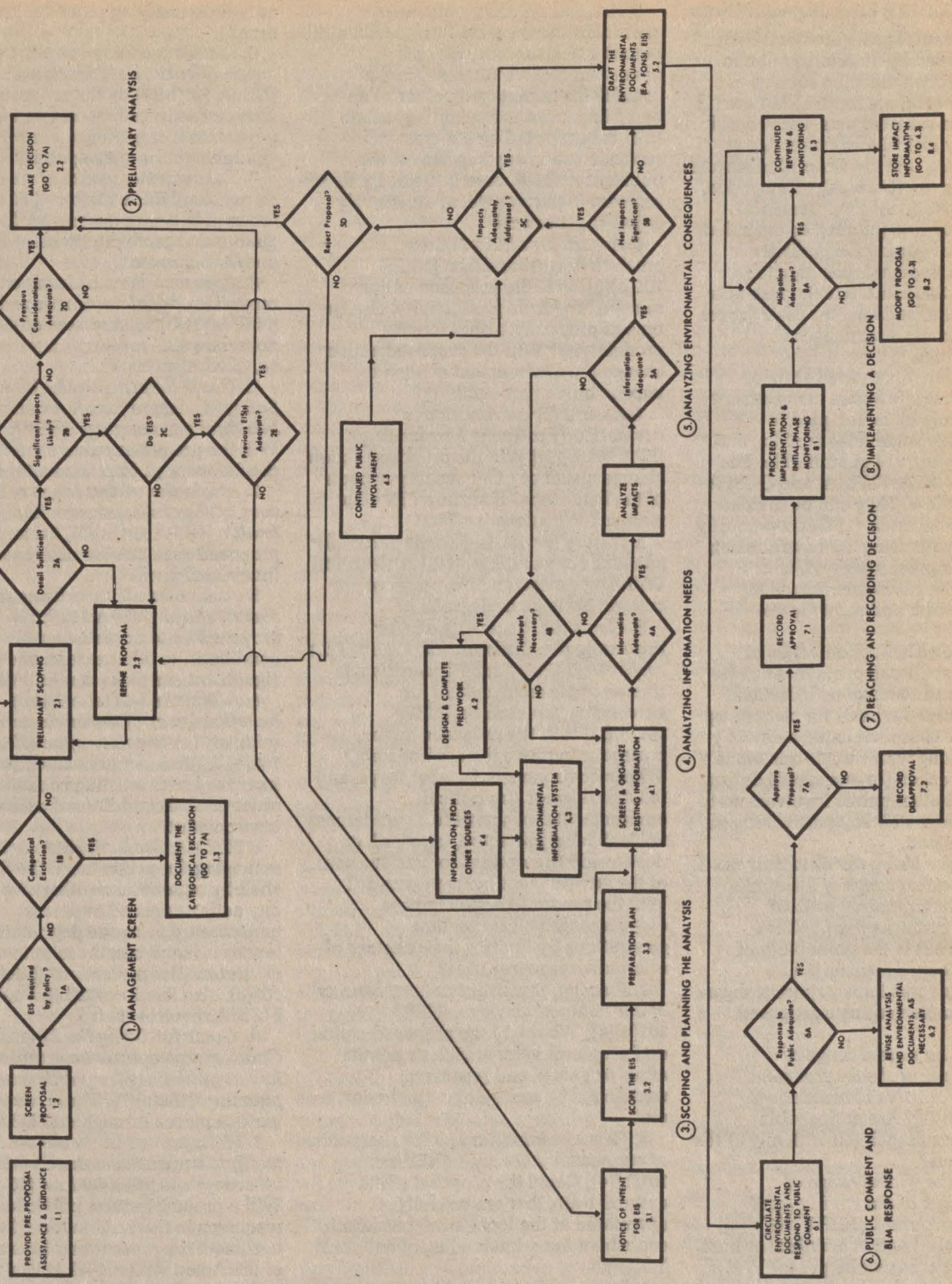
ILLUSTRATION 1

ENVIRONMENTAL ANALYSIS AND DECISIONMAKING PROCESS



*This flow chart illustrates the analysis process and does not relate specifically to documentation. For example, final EISs and final EAs are prepared in box 6.2.

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Appendix A (1790) Environmental Goals

Environmental goals are normative values codified by statute, regulation, or executive action. Specific sources of environmental goals for the BLM are (1) two mission-oriented acts, the Federal Land Policy and Management Act of 1976 (FLPMA) and the Outer Continental Shelf Lands Act (OCSLA), as amended, and (2) the National Environmental Policy Act of 1969 (NEPA), as amended. Although environmental goals are established in other legislation (See Guidebook Section 1790.03), these acts constitute the fundamental basis for the BLM's environmental analysis responsibilities.

Goals define the desired state or condition that a resource management policy or program is designed to achieve. They sometimes conflict, and they usually are not quantifiable. The goals from NEPA, FLPMA, and OCSLA are listed below. They can be divided into three categories: (1) Goals primarily concerned with using the environment; (2) Goals for preserving and/or protecting the environment; and (3) Goals for health and safety in the environment.

1. NEPA Goals. Section 101(b) of NEPA lists six broad goals that can be separated into 20 discrete, individual goals that form the basis for complying with NEPA. These are listed below, by category, along with sample questions that can be asked (or answered) during scoping and other public involvement to determine how well any particular goal is being attained.

A. Goals for Using the Environment. 1. *Attain the widest range of beneficial uses of the environment without unintended consequences.* [NEPA 101(b)(3)] What is the probability of unintended consequences (i.e., unforseen adverse impacts) occurring as a result of implementing a proposed action?

2. *Attain the widest range of beneficial uses of the environment without undesirable consequences.* [NEPA 101(b)(3)] Are undesirable consequences associated with any of the proposed uses?

3. *Attain the widest range of beneficial uses of the environment without degradation.* [NEPA 101(b)(3)] Will a proposed action maintain or limit uses that the area can be put to? Will a new use (e.g., coal mining result in environmental degradation?

4. *Achieve a balance between population and resource use which will permit high standards of living.* [NEPA 101(b)(3)] Are population levels being increased? How will the standard of living be affected?

5. *Achieve a balance between population and resource use which will permit a wide sharing of life's amenities.* [NEPA 101(b)(3)] is the socially disadvantaged person's life being improved or further degraded? Will the proposed action close off resource use to any segment of the public or make it more difficult for that segment to participate, or vicariously enjoy, the resource?

6. *Assure for all Americans productive surroundings.* [NEPA 101(b)(3)] Will the proposed action remove land from productivity, change type of productivity, or increase productivity? Will the proposed action change the environment enough to impede human productivity?

7. *Assure for all Americans aesthetically pleasing surroundings.* [EPA 101(b)(2)] Will the proposed action change visual or other sensory aspects of the landscape? If so, how? IN what manner? Who does it affect?

8. *Assure for all Americans culturally pleasing surroundings.* [NEPA 101(b)(2)] Will the proposed action preserve our cultural heritage or degrade it?

B. *Goals for Preserving and/or Protecting the Environment.* 1. *Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.* [NEPA 101(b)(1)] Will the proposed action protect or improve the environment? Whose environment, in what ways, and to what degree? Are critical environmental concerns (e.g., wilderness values) being protected, impaired, or destroyed? Are options for various uses of the environment being preserved? Will the proposed action impose disadvantages on succeeding generations by limiting their choices of alternative resource uses?

2. *Preserve important natural aspects of our national heritage.* [NEPA 101(b)(4)] What will the proposed action do for natural values, such as pristine areas or values and resources unchanged by technology, synthetics, etc.?

3. *Preserve important cultural aspects of our national heritage.* [NEPA 101(b)(4)] Could the proposal effect cultural traits that are not fully apreciated at the local level, but which contribute to understanding of national heritage?

4. *Preserve important historic aspects of our national heritage.* [NEPA 101(b)(4) What historic aspects are being preserved, and of what important are they?

5. *Maintain an environment which supports diversity.* [NEPA 101(b)(5)] Is the proposal developing a monoculture, or is it diversifying potential uses of an area?

6. *Maintain an environment which supports variety of individual choice.* [NEPA 101(b)(4)] Is the proposal slanted toward use by only a certain type of person, or is it making a variety of uses available to the entire public?

7. *Enhance the quality of renewable resources.* [NEPA 101(b)(6)] How are renewable resources being affected? Are quality and productivity being enhanced and/or improved?

8. *Approach the maximum attainable recycling of depletable resources.* [NEPA 101(b)(6)] Are uses of the nonrenewable resources irreversible? If so, to what extent?

C. *Goals Relating to Health and Safety.* 1. *Assure for all American healthful surroundings.* [NEPA 101(b)(2)] Will the project improve unhealthful conditions, e.g., improve water quality?

2. *Attain the widest range of benefical uses of the environment without risk to health.* [NEPA 101)b)(3)] Do any proposed uses involve an immediate or future health risk?

3. *Assure for all Americans safe surroundings.* [NEPA 101(b)(2)] Will the proposed action create unsafe conditions, to what extent, and how significant are those conditions?

4. *Attain the widest range of beneficial uses of the environment without risk to safety of people.* [NEPA 101(b)(3)] Are safety hazards being increased over existing conditions in order to obtain additional uses of the environment?

2. FLPMA Goals. FLPMA states: "In managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection" [Section 603(c); also Section 302(b)]. Specifically, FLPMA requires that:

A. *Goals for Using the Environment.* 1. *Goals and objectives be established by law as guidelines for public land use planning.* [102(a)(7)] These are stated at various places throughout FLPMA itself.

2. *Management be on the basis of multiple use and sustained yield, unless otherwise specified by law.* [102(a)(7)] Will a proposal utilize public lands and resources in the combination that will best meet the present and future needs of the American people? Will a proposal make the most judicious use of the land for some or all resources, or related services, over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions? Will some land be used for less than all of its resources? Does the proposal combine

balanced and diverse resource uses? Does it consider long-term needs of future generations for renewable and nonrenewable resources, including recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historical values? Will the proposed action provide harmonious and coordinated management of resources without permanently impairing productivity of the land and quality of the environment? Is consideration being given to relative values of resources, and not necessarily to the combination of uses that will give the greatest economic return or greatest unit output?

3. *The public lands be managed in a manner which recognizes the Nation's needs for domestic sources of minerals, food, timber, and fiber from the public lands* including implementation of the Mining and Minerals Policy Act of 1970 as it pertains to the public lands. [102(a)(12)] How do proposed uses relate to the Nation's needs?

4. *The public lands be managed in a manner that will provide food for fish and wildlife and domestic animals.* [102(a)(8)] what changes will there be in food availability for fish and wildlife or in domestic forage?

5. *The public lands be managed in a manner that will provide habitat for fish and wildlife and domestic animals.* [102(a)(8)] What changes will occur in fish and wildlife habitat? Habitat for domestic animals?

6. *The public lands be managed in manner that will provide for outdoor recreation and human occupancy and use.* [102(a)(8)] How do proposed uses provide for outdoor recreation, human occupancy, and other human uses?

B. *Goals for Preserving an Protecting the Environment.* 1. *The public lands be managed in a manner that will protect the quality of scientific values.* [102(a)(8)] How will proposed uses protect scientific values?

2. *The public lands be managed in a manner that will protect the quality of scenic values.* [102(a)(8) How will scenic values be protected?

3. *The public lands be managed in a manner that will protect the quality of historical values.* [102(a)(8)] How will historical values be protected?

4. *The public lands be managed in a manner that will protect the quality of ecological values.* [102(a)(8)] How will ecological values be protected?

5. *The public lands be managed in a manner that will protect the quality of environmental values.* [102(a)(8)] How will other environmental values be protected?

6. *The public lands be managed in a manner that will protect the quality of air and atmospheric values.* [102(a)(8)] How will air quality be protected?

7. *The public lands be managed in a manner that will protect the quality of water resources values.* [102(a)(8)] How will water quality be protected?

8. *The public lands be managed in a manner that will protect the quality of archeological values.* [102(a)(8)] How will archeological values be protected?

9. *The public lands be managed in a manner that, where appropriate, will preserve and protect certain public lands in their natural condition.* [102(a)(8)] Can any portion of land area to be affected by proposed action be preserved in its natural condition and protected?

10. *Regulations and plans for the protection of public land areas of critical environmental concern be promptly developed.* [102(a)(11)] This is being done, herein, and by BLM regulations and plans for "special areas".

3. *OCSLA Environmental Goals.* The OCSLA goals related to the environment are found in several places throughout the Act. In addition to goals specified below, the Act requires leasing programs to include conducting "environmental studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(c) of NEPA". [OCSLA 208, Sec. 18(b)(3)].

A. *Goals for Using the Environment.* 1. Preserve, protect, and develop oil and natural gas resources in the OCS in a manner consistent with the need to balance orderly energy resource development with protection of the human, marine, and coastal environments. [OCSLA 102(2)(B)]

2. Encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments. [OCSLA 102(3)]

3. Manage the Outer Continental Shelf to consider economic, social, and environmental values of renewable and nonrenewable resources contained in the OCS, and the potential impact of oil and gas exploration on other resource values of the OCS and the marine, coastal, and human environments. [OCSLA 208, Sec. 18(a)(1)]

4. In timing and locating exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the OCS, consider (1) geographical, geological, and ecological characteristics among the regions; (2) an equitable sharing of developmental benefits and environmental risks among the various regions; (3) the relative environmental sensitivity and marine productivity of different areas of the OCS; and (4) relevant environmental and predictive information for different areas of the OCS. [OCSLA 208, Sec. 18(a)(2)(A, B, G, & H)]

5. To the maximum extent practicable, select timing and location of leasing so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone. [OCSLA 208, Sec. 18(a)(3)]

B. *Goals for Protecting and Preserving the Environment.* 1. Provide regions impacted by OCS oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby assure adequate protection of the human environment. [OCSLA 102(4)]

2. Consider and recognize the rights and responsibilities of all States and local governments, where appropriate, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity. [OCSLA 202(5)]

3. Minimize the likelihood of occurrences that may cause damage to the environment or to property, or endanger life or health. [OCSLA 202(6)]

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Environmental Analysis and Decisionmaking Process

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Chapter 1—Introduction

Environmental analysis and decisionmaking is a single process

applied with different degrees of intensity. The process is conducted in eight major stages, each containing one or more steps and decision points (Illustration 1).

The process can be adapted to the needs of a particular analysis *in that it requires only the information necessary to get the job done effectively.* Decision points determine whether steps have been completed adequately. When they have, the analysis proceeds rapidly through decision checkpoints. If not, the analysis returns to an earlier stage for clarification or information necessary to proceed. When the analysis returns to an earlier stage, it repeats all decision points. Time and effort needed to repeat a step will vary, but will usually be much less than required the first time through.

Because of these built-in "feedback mechanisms," analysis can be started as late as the fifth stage (e.g., for a resource management plan). Incomplete or inadequate information will require gathering additional information or refining a proposal, as necessary. Used this way, the process can be adapted to the Bureau's planning process for developing resource management plans.

The environmental analysis and decisionmaking process provides managers with a thorough, systematic set of procedures for reaching environmental decisions efficiently, while making certain that significant issues are not overlooked. ("Environmental impact analysis"as used here is really an estimate of *potential* impacts.)

Where impacts are not expected to be significant, procedures allow the environmental analysis team to analyze the situation quickly, draft an environmental assessment (EA), and use the EA to write a finding of no significant impacts (FONSI) with a minimum amount of documentation. Where potential impacts are expected to be significant, the team performs an analysis commensurate with the complexity and degree of significance of the action and prepares an environmental impact statement (EIS).

Working records are used (1) to constitute a formal record verifying that all necessary activities were performed and (2) to support conclusions and decisions. Worksheets and matrices can also be incorporated directly into an environmental document to minimize necessary narrative and reduce the amount of text. These worksheets and matrices are the "tools" used in several of the eight stages for estimating impacts and determining significance.

Chapter 2—Steps in the Process

The environmental analysis and decisionmaking process is carried out through the use of several "tools," such as, worksheets, matrices, and checklists, that provide a clear record of what was done and how decisions were reached. Because several of these tools are used at more than one stage in the process, they are explained in appendices. This chapter describes how and when to use them.

This process is comprehensive enough to handle a large, complex EIS. For simpler analyses, as most EA's are, many of the procedures may not be necessary. *Adapt the process to specific needs of a given analysis. Do only what is necessary to complete the analysis effectively and reach a sound decision.*

1. Stage 1—Management Screen. This stage provides a quick screen to determine whether (1) an EIS is required as a matter of policy, or (2) the proposal is a categorical exclusion. An interdisciplinary team is not needed to make these determinations. If there is any doubt whether the proposal is a categorical exclusion, further analysis is required. Decisions should be made at the lowest Bureau echelon feasible.

1.1 EIS Required by Policy? (Decision Point 1A). The Director, or his delegated representative, may decide that an EIS is required by policy. Beginning an EIS requires a preliminary preparation plan (Illustration 2), which is developed during preliminary analysis (Stage 2). If an EIS is not required by policy, the decisionmaker decides whether the action is categorically excluded.

1.2 Categorical Exclusion? (Decision Point 1B). If the action is categorically excluded from requiring further environmental analysis, go directly to Stage 7. Document the decision to approve or deny the action in a record of decision. A list of categorical exclusions is provided in Departmental Manual Part 516 DM 6 and Appendix 5 of that manual. If the proposal cannot be categorically excluded, begin preliminary analysis.

2. Stage 2—Preliminary Analysis. Preliminary analysis determines the amount of environmental analysis necessary to reach an informed decision. Review existing information, and involve the public informally, as necessary. *Avoid unnecessary analysis and paperwork.*

This stage examines potentially significant issues from two perspectives: managerial and interdisciplinary. It allows the manager the option of requesting modification of a proposal *before* the interdisciplinary analysis. Preliminary analysis begins with preliminary scoping (Box 2.1).

2.1 Preliminary Scoping (Box 2.1). Preliminary scoping identifies potentially significant issues from both managerial and interdisciplinary perspectives. Use a management team (chief of resources, area manager, planning coordinator, environmental coordinator, district manager, etc., as necessary) to supply the managerial perspective. This team uses Worksheet 1 to identify potentially significant issues. If some are found that can be avoided by modifying the proposal, either have the proposal revised before proceeding, or forward the proposal with comments and worksheets to the interdisciplinary team for further analysis.

When identifying significant issues, first list all the concerns and questions that everyone has. Then, whenever possible, condense and consolidate two or more concerns into a single issue for analysis or Worksheet 1.

If an EIS is expected, gather enough information on alternatives and potentially significant impacts to develop a preliminary preparation plan (Illustration 2). Also keep in mind the NOI when reviewing the proposal and its potential impacts. This cuts down on work later when an NOI is drafted.

If an EA is expected, use preliminary scoping to review proposals, to make certain that alternatives are covered in enough detail, and to discover any unanswered questions about alternatives in preliminary scoping. Involve managerial staff as well as technical personnel.

For example, use staff meetings to brief people on new proposals requiring environmental analysis. Briefly describe each proposal and identify potentially significant issues that the action might create. If such concerns are raised, assign an *ad hoc* interdisciplinary team to explore those issues in more detail with the person responsible for the analysis. Disciplines involved should be relevant to the issues.

Use Section 3.3 as a guide and checklist of things to cover for this type of in-house preliminary scoping. *Do only what is required by the complexity of the problem.*

A. *Selecting an Interdisciplinary Team.* An interdisciplinary team consists of two or more individuals from different disciplines bring skills and experience to bear on the problem, *both individually and in joint effort.*

The content of the proposal will suggest the types of disciplines required to evaluate alternatives adequately. An interdisciplinary team should contain representatives from one or more disciplines within each of the following

broad categories: (1) natural sciences, (2) social sciences, (3) environmental design arts, and (4) ecological sciences, as necessary. Where this expertise is not available, consider bringing in expertise from outside the office.

Throughout preliminary analysis, both managers and the interdisciplinary team should be alert to opportunities for aggregating proposals or tiering the analysis.

B. Aggregating Proposals. Aggregation involves combining proposals for an integrated environmental analysis. Aggregation can (1) most accurately represent cumulative impacts; (2) make the most effective use of available manpower and funds; (3) reduce the number of EA's prepared; and (4) make the most effective use of the public's time and participation by avoiding unnecessary meetings.

Keep aware of proposals for concurrent or nearly concurrent activities by coordinating with others in your own and contiguous districts. Determine whether proposals: (1) are generally similar or share similar actions; (2) are located in the same geographical area; (3) will be implemented at or near the same time; (4) may result in cumulative impacts; or (5) set a precedent for future actions.

If any of these situations applies, consider aggregating proposals. In order to be considered for aggregation, however, proposals must be (1) complete enough to be analyzed, and (2) written at the same level of detail.

Where a number of activities are planned well in advance, aggregate proposals in the annual work plan (AWP). Plan one EA for several similar actions (i.e., combine several proposals within one EA if no significant impacts are expected). This uses manpower more efficiently.

Besides the AWP, check current management framework plans (MFP) and resource management plans (RMP) for actions that can be aggregated. Aggregate within resource programs, where possible. When new proposals or applications from outside the BLM come up during the year, use staff meetings and preliminary scoping to aggregate them also, whenever possible.

If impacts from a number of proposals are cumulatively significant, they *must* be analyzed in an EIS, unless all significant impacts will be sufficiently mitigated. This EIS may also include any related action that would normally be covered in an EA.

C. Tiering. Tiering means approaching analysis on a level that best fits a proposal. Normally tiering occurs from the top down, i.e., from broad, programmatic, mission-oriented national proposals through several levels, or tiers, to local, site-specific activities.

The Bureau has several established tiers of decisionmaking and related environmental analysis, which are to be observed. The highest level is Director and State Director policy development. This tier may be subdivided in various ways, depending on the subject matter involved. The next tier is land use planning as accomplished through transition period management Framework Plans (MFP), MFP amendments, or new Resource Management Plans (RMP). The third tier down is implementation planning. This may include activity or functional plans for specific programs. (Not all programs utilize activity plans.) In this lowest tier is, also, specific project design or action decisions.

CEQ regulations discuss tiering only in the context of an EIS (40 CFR 1500.4(i), 1502.4(d), 1502.20, and 1508.28). However, the concept is applicable and useful for the analysis needed for some EA's. Use those regulations as guidelines for scoping and planning environmental analyses at all levels. Specify the tier on which the analysis will focus.

D. Public Involvement. As part of preliminary scoping, the responsible BLM official may wish to inform the public that the Bureau is conducting an environmental analysis. This can be through personal contacts, notices in local media, and/or other means.

2.2 Reviewing and Analyzing Existing Information. As part of preliminary analysis, the interdisciplinary team examines earlier environmental documents, relevant reports, and scientific literature to determine (1) whether the proposed action and alternatives (or parts of them) have already been analyzed for environmental impacts, and (2) whether similar actions have occurred or been analyzed in the same geographic area, or in a similar environmental setting.

After reviewing relevant literature in their disciplines, team members meet again to determine whether previous considerations are adequate to recommend a decision about the proposal, as explained below.

The interdisciplinary team should: *A. Review Proposed Action and Alternatives.* Whenever possible, separate each alternative into major subactions, discrete activities, and their change agents. (See Appendix D.) Relate change agents to specific areas or sites on which the change agents will be active. Information should be complete enough for analysis (e.g., soil families, general slopes, aspects, major vegetative and/or community types, possibilities of endangered species, major animals and habitat types).

Return the proposal for refinement if deficiencies exist (Box 2.3). If information is adequate, use Worksheet 1 to identify potentially significant issues, particularly from the perspective of ecosystem functional values.

B. Search and Review Other Information. Search files, libraries, and other sources to locate analyses and monitoring data on similar actions, subactions, activities, and change agents in similar environmental settings. Look for existing EA's and EIS's covering any portion of an alternative.

These earlier documents may (1) provide baseline data from which to measure impacts and (2) give the team clues to mitigating measures. Incorporating mitigating measures that eliminate significant impacts could result in the need for only an EA and FONSI, instead of an EIS. In this type of situation, the proposal is further refined to include the mitigation (Box 2.3).

C. Analyze Data Applicability. Analyze each change agent's effect on components and processes of the ecosystem (including man as component). Determine whether existing documents are adequate. Look for portions of existing documents that assess probable impacts. Use Worksheet 2 to summarize existing information from these documents whenever data from previous studies are applicable.

When significant issues are considered in earlier documents, record all relevant issues on Worksheet 1. Reference all sources in footnotes. This narrows the scope required analysis to only those actions, subactions, and activities not adequately covered by previous considerations.

2.3 Identifying Potentially Significant Issues. If an EIS is not required by policy or other mandate, the decisionmaker must decide whether other factors warrant an EIS. This decision is make through the interaction of Decision Points 2A, 2B, and 2C. Qualitative estimates of likelihood are used to focus further analysis on potentially significant impacts: The *qualitative* cut tells us what to analyze *quantitatively.*

A. Detail Sufficient? (Decision Point 1A). If the proposal lacks enough detailed information to continue through Decision Points 2B, 2C, and/or 2D, the team specifies what information is needed for further analysis and recommends that the proposal be refined (Box 2.3).

B. Significant Impacts Likely? (Decision Point 2B). At this point in the analysis, Worksheet 1 is used to

determine (1) whether any issues have priorities 1, 2, or 3 (and possibly 4); and (2) whether any thresholds having these priorities are likely to be exceeded. (See Appendix A.) If the proposed action and alternatives are not clearly enough defined to make these determinations, return the proposal for clarifications and refinement (Box 2.3).

Any proposal generating issues with a (1) 1, 2, or 3 priority, and (2) a category A likelihood of exceeding related thresholds must go through Decision Point 2C. All others *may* go through Decision Point 2D for further analysis, with one exception:

Priority 4, category A, is designed to allow a decisionmaker some discretionary judgment. In some cases where likelihood is high, the decisionmaker may wish to consider doing an EIS (Decision Point 2C) or continuing the analysis for an EA at this time (Decision Point 2D), depending on many factors. (See Appendix A.)

C. Do EIS? (Decision Point 2C). If likelihood is high that priority 1, 2, or 3 (and sometimes 4) thresholds will be exceeded, the manager should either recommend an EIS immediately, or return the proposal for refinement (Box 2.3.). In this situation, refinement means modifying the proposal to reduce the likelihood of exceeding any threshold having priority 1, 2, or 3 (and possibly 4).

2.4 Previous Considerations Adequate? (Decision Point 2D). If analysis is to continue in an EA mode, review potentially significant issues recorded on Worksheet 1. The priorities, thresholds, and likelihoods will determine how to continue. Analyze all issues *except* where thresholds with priorities 2 through 5 have a negligible likelihood of occurring (Category C).

If similar proposals have been analyzed in similar locations and no significant impacts were predicted, preliminary analysis should assure that previous analyses, or relevant portions of them, still apply. If they apply, the environmental documents can incorporate these previous considerations by reference. Be sure to explain how and why the previous analyses apply to the proposal.

After reviewing existing information about similar actions, ask whether (1) the proposal itself (or portions of it) has been considered previously, and (2) that consideration is still current.

If the proposal has been analyzed in an EA or an EIS and the information is adequate, in terms of scope, specificity, and currency, the team informs the manager about these previous considerations. When parts of a proposal have been adequately covered previously, the team specifies the acceptable previous considerations and identifies those parts of the proposal that still must be analyzed. Include complete references of documents cited, with relevant page numbers.

When previous considerations are adequate, the decisionmaker can approve or disapprove the action based on those considerations (Box 2.2). If the proposal is not fully covered by adequate previous analyses, the interdisciplinary team moves into Stage 4, focusing the information search *only* on issues and impacts not covered adequately elsewhere.

A. Make Decision (Box 2.2). If the manager decides a proposal is adequately covered by previous considerations, he skips to Stage 7.

B. Return Proposal to Team. If the manager decides previous considerations are not adequate, he/she returns the proposal to the team for further analysis on any portions requiring it (Stage 4).

2.5 Previous EIS(s) Adequate? (Decision Point 2E). If analysis is to continue in an EIS mode, the team should check for the possibility that the proposal might have been covered in one or more previous EIS's. If so, the manager can make a decision (Stage 7) and incorporate the previous EIS's by reference in the record of decision. If not, the manager recommends an EIS. (When parts of a proposal have been analyzed adequately in previous EIS's, those parts can be incorporated by reference later in the new EIS).

3. Stage 3—Scoping and Planning the Analysis.

3.1 Procedures. Formal scoping is required only for an EIS. When significant impacts are found, an EIS is required by CEQ's NEPA regulations. However, the Director must aprove, or have delegated approval for, starting analysis for any EIS. The responsible official requests permission from the Director, or his delegated representative, to begin analysis for an EIS. This request must be accompanied by a preliminary preparation plan.

A. Preliminary Preparation Plan. When an EIS is anticipated, preliminary analysis is used to develop a preliminary preparation plan (Illustration 2). If information is not sufficient to develop an adequate preliminary preparation plan, return the proposal for further refinement (Box 2.3). The main purpose of the preliminary preparation plan is to organize background work that has already been done and provide the Director, or his delegated representative, information needed to approve the EIS. Issues determined to be significant by the Bureau are emphasized.

The preliminary preparation plan is a working document that undergoes substantial changes during scoping. The preliminary plan does not require Washington Office approval.

B. Mandated EIS's. When an EIS is required by court order or by a Secretarial decision, and authority for approval is with the Director, or above, a preliminary preparation plan is prepared and sent to the responsible Washington Office program staff for comments and information purposes before filing an NOI and beginning scoping. The purpose of the comments is not to revise the plan, but to provide advice on alternatives, the NOI, and scoping. For EIS's delegated to State Directors, the preliminary preparation plan is sent to the Washington Office at the time the NOI is filed.

3.2 Notice of Intent (Box 3.1). Publication of a notice of intent to prepare an EIS begins formal scoping. Two main purposes of an NOI are (1) to notify persons or agencies interested in, or affected by, a proposed Federal action, and (2) to seek information and/or participation in scoping by potentially affected interests. The NOI is explained in CEQ's regulations (40 CFR 1501.7, 1507.3(e), and 1508.22).

The NOI should include:

A. Description of the proposed action and alternatives, including purpose of, and need for, the proposed action.

B. Identification of the geographic area to be impacted.

C. Significant issues identified by the Bureau.

D. Description of the scoping process to be used, including:

1. Kind and extent of public involvement planned.

2. Times, dates, and locations of scheduled or anticipated public meetings, hearings, or other similar gatherings.

E. Name, title, address, and telephone number of Bureau officials who may be contacted for additional information.

F. Location and availability of documents relevant to the proposal and the EIS.

3.3 Scoping the EIS (Box 3.2). The overall purposes of scoping are (1) to identify significant issues resulting from the proposal, (2) to prioritize those issues, (3) to determine the scope of issues to be analyzed in detail for the EIS, and (4) to set criteria for developing an environmentally preferable alternative. The NOI identifies potentially significant issues so the public can more readily determine whether they are interested in, or affected by, the proposal.

A. Scoping Tasks. Scoping accomplishes a number of specific tasks

(40 CFR 1501.7), which should be documented in the preparation plan. This section summarizes six tasks. Section B explains the tasks in detail.

1. Determine the scope (40 CFR 1508.25) of the analysis and the significant issues to be analyzed in depth in the EIS.

2. Identify and eliminate from detailed study issues determined during scoping not to be significant and issues covered by prior environmental review.

3. Identify reasonable alternatives and eliminate from detailed study alternatives that are not reasonable. (*Note:* Try to get consensus, but this is not necessary.) Also identify any issues generated by new alternatives.

4. Allocate assignments for preparation of the EIS among lead and cooperating agencies.

5. Identify relevant EA's and other EIS's that are being prepared, or will be prepared, but which are not part of the scope of the EIS under consideration. Identify other environmental review and consultation requirements so that the lead and cooperating agencies may prepare other analyses and studies concurrently with, and integrated with, the EIS as provided in 40 CFR 1502.25.

6. Indicate the relationship between the timing of environmental analyses and the planning and decisionmaking schedule.

B. Task Explanations.

1. Determining Significant Issues. Scoping involves asking the public to identify issues not readily apparent during preliminary analysis (Stage 2) and determining which issues are significant. Appendix A explains how to use Worksheet 1 to determine significance.

2. Eliminating Insignificant Issues. Clearly identifying potentially significant issues allows the interdisciplinary team to focus analysis on those issues and avoids a "shotgun" approach to gathering basic data and analyzing issues that are not significant. It also eliminates unnecessary discussion in an EIS. However, analysis may include related issues, where appropriate.

3. Identifying Reasonable Alternatives. The main purposes of this task are (1) to insure that reasonable alternatives to the proposed action will be analyzed in detail in the EIS and (2) to minimize time devoted to analyzing alternatives that are not reasonable. This will be a complex task because what might seem reasonable to one individual or a group may be unreasonable to others. The test of reasonableness will depend on the values of those involved. Refer to Appendix C "Determining Reasonable Alternatives."

4. Allocating EIS Assignments. Lead and cooperating agencies must collaborate in preparing an EIS. This often involves a Memorandum of Understanding (MOU), (1) specifying each agency's responsibilities for preparing portions of the EIS, and (2) setting deadlines for getting them to the lead agency. The MOU should be signed as soon as possible so as not to delay the NEPA process.

When BLM is a cooperating agency, the MOU should insure that the Bureau will be able to share information and analysis from the environmental document, where applicable. The responsible Bureau office should also plan how to prepare BLM portions of the EIS. This may include a combination of in-house and contracted efforts.

5. Including Other Analyses. Contact other agencies to determine whether they are preparing, or will prepare, any EA's or EIS's (1) in the same geographic area as the proposed action, or (2) on interrelated or associated projects. When possible, involve agencies planning a later action that might be related to the proposal. (See 40 CFR 1502.4.) This will help reduce duplication of effort and provide the needed environmental information to Federal agencies and the public in one environmental document.

6. Timing of Agency Action. Developing a schedule for the EIS will facilitate public involvement at crucial times during analysis. Although the schedule can change owing to unforeseen circumstances, a schedule must be laid out.

C. Scoping Techniques. The scoping process for an EIS must be described in the NOI. Procedures used to involve various publics are diverse. Different levels of involvement are required at various stages in the environmental analysis and decisionmaking process. No single approach or format is universally successful. Detailed guidance is available in the Public Participation Guide (BLM Manual Section 1601, (Appendix 2).

Regardless of scoping format, however, use Worksheet 1 to summarize all potentially significant issues raised by the public. In some cases (e.g., a public meeting) it may be better to write issues on a blackboard or flip chart first. Often two or more issues can be consolidated into a single issue for further analysis on Worksheet 1.

3.4 Preparation Plan (Box 3.3). The purposes of the preparation plan (Illustration 3) are (1) to summarize scoping activities and (2) to define the scope of the EIS.

A. Preparation Plan Components. The preparation plan provides the basis for communication within the Bureau and between the Bureau, Department, and any other agency involved. It describes the nature and scope of the proposal and alternatives. It also provides needed information to Bureau decisionmakers on the use of available expertise and funds for EIS preparation.

B. Review and Approval. Where EIS filing authority has not been delegated to the State Directors, EIS preparation plans are submitted to Washington Office staff with program responsibility (Washington Management Staff). If there is a question about which staff is responsible, submit the plan to the Chief, Office of Planning, Inventory, and Environmental Coordination for resolution. Washington Office staffs reviewing preparation plans must complete review within timeframes established by the Washington Management Staff. Reviews are conducted primarily to determine whether the scope of the EIS should be approved. Comments on the preparation plan may include changes to the plan, comments about its implementation, or changes to the scope of the EIS.

For certain kinds of proposals (e.g. rangeland management and timber management), the Washington Management Staff may require more information on the proposal and alternatives than will normally be required in a preparation plan. This information must be provided before the preparation plan is approved.

Preparation plan approvals may include delegating authority to the State Director to file the EIS. Such delegation of authority will be based on factors including the experience and capability of the State Office staff to insure adequacy of the EIS. As State Offices gain more experience, filing authority may be delegated on a State-by-State basis for certain kinds of EIS's.

Where EIS filing authority has been delegated to the State Director, EIS preparation plans are generally reviewed at the State Office level. However, the Washington Office may review some preparation plans to monitor State Office NEPA compliance.

4. Stage 4—Analyzing Information Needs. Make certain there is enough information about the proposal, important or significant issues, and the environmental setting to analyze environmental consequences associated with alternatives.

Worksheets 1 and 2 are designed to help organize information compactly and efficiently during analysis and maintain a record of what was considered. Worksheet 1 provides a

starting point for organizing information by identifying significant issues and any missing information about those issues.

Worksheet 2 is designed to summarize several different impacts associated with a major activity or subactivity. It is used with checklists of change agents and impacts to identify direct and indirect (higher-order) impacts produced by alternatives. All anticipated impacts should be included, whether they are expected to be significant or not. If they are expected to be significant, use columns 12 and 13 to explain why. Link impacts to any significance thresholds established on Worksheet 1.

For an EIS, organize information around signficant issues, as identified on Worksheet 1. Issues having priorities 1, 2, and 3 must be analyzed in an EIS. (See Appendix A.) Issues having priorities 5 and zero, need only be analyzed in an EA. Issues assigned a moderate priority (4), may appear in both EA's and EIS's.

For an EA, begin analysis by focusing on issues identified on Worksheet 1. Include other issues as they are discovered during environmental analysis with Worksheet 2, no matter what their priority.

4.1 Screen and Organize Existing Information (Box 4.1). Potentially significant issues are identified on Worksheet 1, one issue per worksheet. Organize worksheets into categories according to component or process affected. This identifies which ecosystem components and processes are the focus of most concern, at least for an initial cut.

A. Determine Information Needs. Information necessary for impact analysis might not be available at this point. The first task in analyzing information needs is to compile a list of facts needed to continue analysis. This means identifying thresholds, baseline values, and other information required on Worksheet 1.

B. Types of Information. Each alternative in a proposal may be composed of several subactions, activities, and subactivities that produce primary change agents. (See Appendix D.) Use Worksheet 2 to identify impacts produced by change agents.

For example, on a large coal mine, one implementation stage might be construction, the second might be operation, and the third, rehabilitation and restoration. Each of these stages might involve building roads. Road construction consists of pretty much the same activities, regardless of the stage in which it occurs. The activities, in turn, consist of several subactivities, each of which produces one or more change agents.

Search proposals systematically for decision implementation stages, subactions, activities, etc., to identify all change agents that could produce potentially significant impacts. Although scoping identifies many of these, not all significant impacts are identified during scoping. Often impacts to functional values of the ecosystem will not be apparent until well into the analysis. Record on Worksheet 1 any potentially significant functional thresholds discovered during analysis.

Use information about the proposed action and alternatives to identify the affected environment. With known change agents in mind, look for key ecosystem components and processes that might be affected, but which were not identified during scoping.

C. Sources of Information. Information for the analysis can come from fieldwork, the public, the environmental information system, and other sources (Illustration 1).

The environmental information system (Box 4.3) is not a formal structured system at this time. It is a general term for bibliographies, other environmental documents, a data bank, scientific literature reference books, etc.

For an EA, very little extra work might be required in this stage beyond that completed during preliminary analysis (Stage 2). When information is organized as described above, impact analysis can begin immediately.

For either an EA or an EIS, ask: Is the information adequate to analyze impacts? (Decision Point 4A). If it is, the analysis continues. If not, fieldwork is considered (Decision Point 4B).

Where fieldwork is required, it must be carefully designed to get the most meaninful information. For a simple proposal, a one-day reconnaissance may be sufficient. A small team of individuals can visit an area, discuss the project on site, and reach conclusions about impacts quickly. In other cases, pilot studies may be required to get enough information simply to design more detailed studies on the ecosystem.

If extensive fieldwork is necessary to finish analysis, the action may also require monitoring. This should be considered when laying out study plots or designing other aspects of the field study. Use standard BLM field procedures, whenever possible.

Other sources of information (Box 4.4) include sources outside BLM. University professors and libraries are often excellent sources. Local historians, long-time residents, and sportsmen often have information that is not available anywhere else. A brief phone call can frequently provide direction that avoids hours of literature search. It often has the additional advantage of involving the public informally.

This continuing public involvement (Box 4.5) can be informal, as mentioned above, or it may require formal review of data and information throughout the analysis by varius affected interests and their representatives. Circulating copies of worksheets and early drafts of the analysis periodically may avoid unpleasant surprises during public review of environmental documents.

5. State 5—Analyzing Environmental Consequences.

This stage uses information organized in Stage 4, (1) to estimate environmental impacts; (2) to develop new alternatives, if necessary; (3) to develop mitigation measures for significant impacts, where feasible; and (4) to plan appropriate monitoring activities.

5.1 Impact Analysis Process. Analysis is focused on (1) impacts related to thresholds for issues listed on Worksheet 1, and (2) discovering new impacts (particularly on ecosystem functional values) that could raise other significant issues.

Impact analysis is handled largely through Worksheet 2. No matter how simple or involved the environmental analysis, Worksheet 2 should always be filled out as fully as possible *before any decision is made about going to the field.* Use information from preliminary analysis, scoping, existing literature, the proposal, and other sources. If this is done, field analysis is readily accomplished using Worksheet 2.

For instance, listing change agents in column 5 focuses analysis on impact-producting factors associated with each alternative. If column 5 is filled out before the team goes into the field, the team can concentrate on determining what impacts may be expected within their area of expertise as a result of those agents. They can use the worksheets directly as field sheets, recording their observations in a standard format as they move through a site. The worksheet also provides a focal point for on-the-spot team consultation as well as for further analysis at the office.

Different disciplines use different methods to estimate impacts. Whenever other worksheets, notes, references, or methods are used to derive impact estimates for Worksheet 2, attach these records to the record copy of Worksheet 2. This is particularly important for significant impacts or for documenting estimates on Worksheet 3. Where necessary for environmental documents, summarize in narrative text the procedures and rationale used to estimate an impact. Explanations must be clear and concise.

Use interdisciplinary analysis to identify mitigation and apply it to

impacts, whenever possible. This is particularly true of impacts likely to cross high-priority thresholds.

A. Information Adequate? (Decision Point 5A). Information must be adequate for conducting a thorough analysis. In particular, this means assigning meaningful quantitative probability estimates to any impacts associated with a 1, 2, or 3 (and possibly 4) threshold. Probabilities should also be assigned to other potential impacts, whenever possible, using Worksheet 2, or to a range of impacts, using Worksheet 3.

5.2 Planning Necessary Monitoring. Significance thresholds identified on Worksheet 1 provide targets for mitigating impacts. Where estimates of significant impacts are very uncertain or involve great risks, impacts and mitigation should be monitored. Monitoring should focus on key indicators.

For example, if the health of a deer herd is a significant issue, monitoring might involve looking at mean weight of animals harvested or fawn mortality. Monitor whatever gets the job done *effectively* at the lowest cost, while permitting comparision against baseline data. This is where field studies (Box 4.2) should be considered and designed in light of what might need to be monitored after an action is implemented.

5.3 Summarizing and Comparing Impacts. Appendix B describes how to use Matrix 1 to summarize impacts of an alternative. This matrix permits calculating cumulative impacts of different activities.

After Matrix 1 is completed, the comparison matrix (Matrix 2) must be developed. This presents environmental impacts of alternatives in comparative form in a single matrix. Significance thresholds are listed in a separate column, along with their priorities. This matrix provides the decisionmaker a succinct comparative format for objectively evaluating alternatives, making trade-offs, and reaching decisions quickly, openly, and effectively.

A. Net Impacts Significant? (Decision Point 5B). At this point in the analysis, potential impacts are summarized with their probabilities of occurring and, in the case of significant issues, any relevant thresholds and priorities. To determine whether any impact will be significant, the following criteria are suggested:

1. Any impact expected to exceed a priority 1 threshold with a likelihood of 1 in 100 (1% of the time, probability 0.01), or more, is significant.

2. Any impact expected to exceed a priority 2 threshold with a likelihood of 1 in 20 (5% of the time, probability 0.05), or more, is significant.

3. Any impact expected to exceed a priority 3 threshold with a likelihood of 1 in 5 (20% of the time, probability 0.2), or more, is significant.

4. Any impact approaching or exceeding a priority 4 threshold could be significant. This is a management decision.

5. Any impact that exceeds *only* a priority 5 threshold is not significant.

B. Impacts Adequately Addressed? (Decision Point 5C). After identifying significant impacts at Decision Point 5B, the manager must decide how to handle them. The nature of the proposed action may require that unmitigatable significant impacts be tolerated, in which case they are "adequately addressed" and an EIS is drafted (Box 5.2).

On the other hand, particularly in an EA mode, the decisionmaker may wish either to reject the proposal (Decision Point 5D), or have it refined further to eliminate the significant impacts that the analysis identified (Box 2.3).

5.4 Development of Environmental Documents. Worksheets and matrics used throughout the process can be thought of as the skeleton of the analysis. Any narrative that accompanies worksheets and matrices should serve to clarify, summarize, or expand upon parts of the analysis that are not self-explanatory. When worksheets are included as appendices or illustrations, refer to them without going into detailed explanation. Guidance on preparing and circulating environmental documents is found in Guidebook Section 1792.

6. Stage 6—Public Comment and BLM Response. Public comment may be written or oral. Comments must be addressed if they (1) are substantive and relate to inadequacies or inaccuracies in the analysis or methologies used, (2) recommend reasonable new alternatives, (3) involve disagreements on interpretations of significance, and/or (4) express opinions on the proposal or on personal preference values.

When analyzing comments, organize them by type. Then group them further in terms of project activities (and their change agents) and affected environmental components and processes.

6.1 Response to Public Adequate? (Decision Point 6A). Public comments on an environmental document play a major role in determining how adequate that document is. Modify, supplement, or improve analysis by repeating earlier stages to the extent needed.

A. Inadequacies, Inaccuracies, and Alternative Methodologies. Factual corrections must be made and recylced through analysis. When a difference of opinion over a significant impact cannot be adequately resolved, that difference must be brought out in all environmental documents and decision documents. Such impacts may require monitoring in order to be resolved.

If additional information is needed to fulfill environmental review and/or consultation requirements of cooperating agencies, those agencies should be encouraged to provide the information and analysis needed for their decisionmaking process. Where additional information is needed for BLM to make a decision, and BLM is a cooperating agency, BLM should provide the information unless other arrangements have been made.

If public comments on a final EIS identify new significant impacts, repeat Stage 2 to determinate whether the impacts are adequately addressed in other environmental documents. Decision documents and records of decision must reflect this information.

If the information has not been covered adequately, the responsible official recommends preparing a supplemental EIS. After this recommendation is approved, the responsible official files an NOI in the **Federal Register** and proceeds with scoping, focusing on the new issues (Stage 3).

If comments disagree with the methodology used to determine impacts and they suggest an alternative methodology, the team reviews the literature to compare methodologies. This is especially important if suggestions come from agencies with special jursidiction, expertise, and/or recognized experts.

B. New Alternatives. If comments recommend new alternatives which were not eliminated in the scoping process, determine whether the alternatives should be analyzed in depth. When new alternatives meet objectives of the proposal, in whole or part, they are cycled through the process to determine whether they are reasonable. If they are reasonable and would result in environmental impact different from those already analyzed, they must be analyzed in depth.

C. Disagreements on Interpretations of Significance. When comments disagree with BLM's interpretations of what is significant, the interpretations must be re-evaluated in the light of those comments. Differences of opinion about significance are as important to re-analyze as differences of opinion about the impact itself. Re-evaluations may

require reconsideration of thresholds for significance. These may be legitimate differences of professional opinion. Use a systematic process to attempt a resolution, e.g., the CEQ referral process (40 CFR 1504 and Guidebook Section 1793).

D. Opinion on the Proposal and Preference Values. Comments that fall into the category of preference values or "votes" on the proposal need not be recycled through the analysis process. However, they should be summarized whenever possible and brought to the attention of the decisionmaker.

7. Stage 7—Reaching and Recording Decision. The decisionmaker must document the rationale for a decision and how environmental analysis was used in making that decision. To the extent possible, the record of decision should be integrated with existing decisionmaking processes and documents. For further explanation, refer to 40 CFR 1505.

A. Approve Proposal? (Decision Point 7A). All alternatives considered by the decisionmaker must be included in the record of decision. A decision can approve (1) any single alternative, (2) any parts of alternatives, or (3) any combination of alternatives. Any decision that would result in environmental impacts different from those already analyzed must be re-analyzed in depth, as explained in Section 6.1B above.

7.1 Record Approval (Box 7.1). All decisions to approve proposals must be accompanied by a record of decision.

7.2 Record Disapproval (Box 7.2). Disapproval results in the no-action alternative. It requires a record of decision also.

8. Stage 8—Implementing the Decision. Plans for implementing an alternative and monitoring it are often modified during environmental analysis.

8.1 Proceed with Implementation and Initial-Phase Monitoring (Box 8.1). As initial phases of an action are implemented, activities may or may not be monitored. Purposes of monitoring are (1) to help resolve differences of opinion about impacts; (2) to assure decisions are being implemented; (3) to determine whether mitigating measures are working as prescribed; (4) to determine whether impact predictions are accurate; and (5) to discover unanticipated and/or unpredictable effects. A side benefit of monitoring is the gathering of data and information that could be used as a baseline for future analyses.

A. Mitigation Adequate? (Decision Point 8A). To determine whether mitigation is adequate, consider several factors: (1) Was the decision, including mitigating measures, implemented as described in the analysis? (2) Are mitigating measures working as prescribed? (3) Are any impacts significant? (4) If so, can they be mitigated? (5) Could some mitigating measures be eliminated because they do not reduce or eliminate significant impacts?

If monitoring indicates the decision is not being implemented as described, every effort must be made to bring about compliance. If mitigating measures suggested by another agency and incorporated into the decision have not been carried out, BLM must inform that agency and work with them to take appropriate action.

If monitoring indicates that mitigating measures are not working as prescribed, BLM reviews those measures to determine whether additional or different measures are needed. Some general criteria for whether mitigation is adequate are:

(1) If mitigation is not working as prescribed but no significant impacts are detected, mitigation is adequate.

(2) If mitigation is not working as prescribed and unexpected significant impacts are detected, mitigation is inadequate.

(3) If mitigation is working as prescribed and impacts occur as predicted, mitigation is adequate.

(4) If mitigation is working as prescribed and unexpected significant impacts occur, mitigation is inadequate.

8.2 Modify Project—Box 8.2. If mitigation is inadequate (Decision Point 8A), modification of the action must be considered. The ability to modify an action at this point will depend on whether the proposal was initiated within or outside of BLM. If the project was initiated outside, a great deal will depend on legal constraints of the lease, license, contract, or agreement.

For example, if monitoring reveals violations of law (e.g., air quality standards), BLM should inform the responsible agency so that they can take appropriate action. If BLM can require additional mitigating measures that would reduce or eliminate the unexpected significant impacts, the Bureau should do so.

In the case of a phased decision, later phases may be modified if unexpected significant impacts are found.

When actions are initiated by BLM, violations of any legal thresholds (e.g., air quality standards) or thresholds for planning will require modifying the action to eliminate the violation. If any normative thresholds or goals are violated, the decisionmaker must determine whether modification is necessary.

8.3 Continue Review and Monitoring (Box 8.3). After initial phases of an action have been completed, the long-term monitoring program is started, if applicable. It is intended to insure that long-term mitigation and rehabilitation measures are working. Information gained in this review may also be used to modify the action, as described above for initial-phase monitoring.

8.4 Store Impact Information (Box 8.4). Information from monitoring is stored in the environmental information system (Box 4.3), if data quality is high enough.

Chapter 3—Documentation

1. *Environmental Documents.* There are four "environmental documents" according to the CEQ's NEPA regulations. They are: environmental assessments (EA's), findings of no significant impact (FONSI's), environmental impact statements (EIS's), and notices of intent to prepare an environmental impact statement (NOI's).

1.1 *Environmental Assessment (EA).* An EA must contain sufficient information and analysis to support a decision on whether significant impacts are expected and therefore whether to prepare an EIS.

1.2 *Finding of No Significant Impact (FONSI).* A FONSI is prepared as a separate covering document based on review of an EA. The FONSI may be included in the record of decision.

1.3 *Environmental Impact Statement (EIS).* EIS's are prepared for those actions having a significant effect on the environment.

1.4 *Notice of Intent (NOI).* A notice of intent is prepared to (1) notify persons or agencies interested in, or affected by, a proposal requiring an EIS and (2) seek information and/or participation in the scoping process.

2. *Records of Decision.* Records of decision are prepared for:

2.1 *Categorical Exclusions.* The record of decision must clearly indicate the action is a categorical exclusion, and must reference the list(s) of categorical exclusions applicable. It must also state that the action does not fall under any of the exceptions to the categorical exclusions and must support that conclusion.

2.2 *Decisions Not Requiring Further Environmental Analysis.* Where the proposal is adequately covered by previous environmental documents, the record of decision must indicate the rationale for approval or disapproval of the proposal and must reference the appropriate environmental documents. These may include environmental documents prepared by other agencies.

2.3 *EA's.* Records of decision in cases requiring an EA and resulting in a FONSI must demonstrate clearly that significant impacts are not expected. This can be accomplished by (1) referencing other environmental documents substantiating that the proposal is not expected to result in significant impacts, and/or (2) explaining why impacts resulting from the proposal are not expected to be significant. The record of decision may include the FONSI.

2.4 *EIS.* The record of decision in cases requiring an EIS is described in the CEQ's NEPA regulations (40 CFR 1505.2).

2.5 *Preemptive Rejection.* This takes place when a manager uses his judgement in rejecting a proposal without going through the environmental analysis process. The record of decision in this case must clearly state the rationale for the decision.

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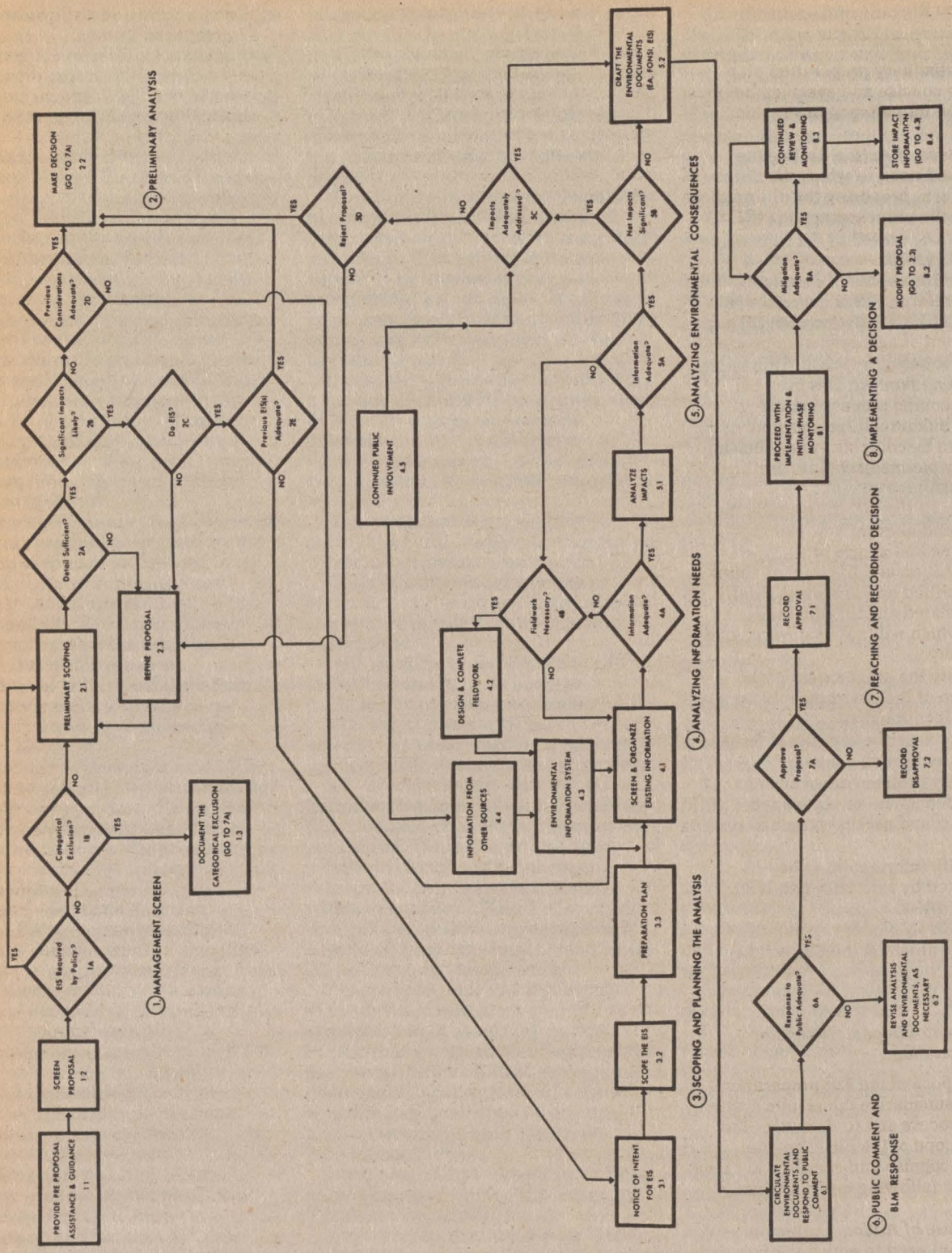
ILLUSTRATION I

ENVIRONMENTAL ANALYSIS AND DECISIONMAKING PROCESS



*This flow chart illustrates the analysis process and does not relate specifically to documentation. For example, final EISs and final EAs are prepared in box 8.2.

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Illustration 2

Preliminary Preparation Plan

The preliminary preparation plan should be concise and succinct, but must include the following topics in this order.

A. *Purpose of Action.* Define the purpose and need to which the Bureau is responding in proposing the alternatives including the proposed action (40 CFR 1502.13).

B. *EIS Level (coverage of broad or narrow matters).* Identify the level of the EIS. This refers to tiering of EIS's (40 CFR 1500.4(i), 1502.20 and 1508.28) and to the extent of aggregation of proposals (40 CFR 1502.4(c)).

C. *Scoping Process.* Describe the planned scoping process including names of individuals, groups and agencies to be contacted and when and where any planned scoping meetings will be held.

D. *Scope of the EIS.* 1. Describe the proposal and alternatives. List the components and stages of implementation and the related actions to be described and analyzed. Briefly identify related actions and their impacts which will not be covered and explain why.

2. Identify the areal extent of the description of the environment and enclose a location map.

3. Briefly describe significant issues identified by Bureau analysts.

4. Identify problem areas such as areas of incomplete or inadequate information and suggest possible solutions.

5. Identify information to be incorporated by reference (40 CFR 1502.21 and 1506.3.).

E. *Organizational Level.* Identify the office level at which the EIS will be prepared.

Illustration 3

Environmental Impact Statement Preparation Plan

The purpose of the EIS preparation plan is to summarize the results of the scoping process and to document the planned scope of the EIS. The plan should be concise and succinct, but must include the following topics in this order.

A. *Purpose of Action.* Define the purpose and need to which the Bureau is responding in proposing the alternatives including the proposed action (40 CFR 1502.13).

B. *EIS Level (Coverage of broad or narrow matters).* Identify the level of the EIS. This refers to tiering of EIS's (40 CFR 1500.4(i), 1502.20 and 1508.28) and the extent of aggregation of proposals (40 CFR 1502.4(c)).

C. *Scoping Process.* Identify the groups organizations, agencies, etc. that participated in the scoping process to date. Briefly describe major aspects of the scoping process. Identify allocations of assignments for EIS preparation among lead and cooperating agencies (if applicable).

D. *Scope of the EIS.* 1. Describe the proposal and alternatives. List the components and stages of implementation and related actions to be described and analyzed. Briefly describe alternatives dropped from detailed study during the scoping process. Briefly explain (with reference to the scoping process) why the impacts from related actions will be or will not be treated in the EIS.

2. Identify agencies with jurisdiction or expertise which need to be consulted further in preparing the EIS.

3. Identify the areal extent of the description of the environment and enclose a location map.

4. Briefly describe significant issues and values identified in the scoping process.

5. Briefly describe issues determined (in the scoping process) not to be significant and therefore not requiring detailed study.

6. Identify problem areas such as, areas of incomplete or inadequate information and organizational deficiencies in skills needed to analyze skills identified as significant in the scoping process (40 CFR 1502.6). Suggest possible solutions (such as contracting for needed studies and analysis, scheduling training, and identifying the incomplete or unavailable information which may be handled in accord with 40 CFR 1502.22).

E. *Organizational Level.* Identify the office level at which the EIS will be prepared. Describe the organizational arrangement of the EIS team and its internal work flow and responsibilities. Identify each individual assigned to the EIS team by organization and professional expertise. "The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process . . . ." (40 CFR 1502.6)

F. *Statement Outline.* Show the format in which the EIS will be prepared. Indicate issues requiring detailed study and issues not requiring detailed study and the individuals responsible for them. Outline in sufficient detail to demonstrate that significant issues will be addressed in detail.

G. *Public Involvement Arrangements.* Identify groups, organizations, agencies, etc. that should be involved in subsequent steps in the environmental analysis process and steps to be taken to involve them.

H. *Preparation Schedule.* Identify critical points in the preparation process showing dates. The schedule may be readjusted during EIS preparation to meet unexpected problems or to analyze previously unidentified significant issues.

Appendix A.—Determining Significance

1. Introduction. This appendix develops a working definition of "significance." To determine whether an environmental impact is significant, we must answer the following question: "Who says it's significant, and why?" In other words, we must consider different viewpoints. Who will be affected by the impact? Why is the impact significant? Or, why not?

We must also clearly distinguish between the environmental impact itself and the significance of that impact to someone, some thing, or the ecosystem itself. This approach lets us identify potential controversy and major impacts early so we can focus analysis on issues that are truly significant.

Worksheet 1 (Illustration A–1) provides a format for identifying potentially significant issues for analysis. A second worksheet (Worksheet 2) designed to identify environmental impacts is explained in Appendix B.

2. Definitions for Determining Significance. Determining significance requires setting ground rules that are understood and easily applied. This means defining and using some words precisely, so that everyone klnows what's being said.

An *issue* is: an unresolved question about an environmental impact, or about the use of an environmental resource.

An *impact* means: a change in the ecosystem caused by an act of man.

The impact becomes *significant* for some affected interest when it meets both of the following criteria:

(1) The amount of change (increment) exceeds a threshold: *and*

(2) Exceeding that threshold takes on new importance for that affected interest (i.e., according to a particular viewpoint or value system, it is not acceptable to cross that threshold).

A significance *threshold* is a maximum or minimum number, or other parameter, established by somebody or something that will be affected by the impact. It may be an individual or interest group, or it may be a tolerance within the ecosystem itself. The threshold is set according to a particular point of view (value system).

When an environmental impact exceeds a threshold, that impact

becomes "significant" to the affected interest. An *affected interest* is an individual person or species, a human or other population, or any other part or process of the ecosystem affected by the impact.

Different affected interests hold different values that influence their respective viewpoints. A *value system* is a set of values held by any affected interest. Usually the values we hold strongly shape our opinions, attitudes, and behavior, and thus our judgment about what is significant.

Three types of values are used in determining significance:

Functional values focus on functioning of an ecosystem at different levels of ecological (biophysical, social/economic, and political) organization. If an impact changes the functioning of one or more of these levels past a threshold value, the impact is significant to that level of the ecosystem affected.

Normative values are social norms that serve to guide, regulate, or control "proper and acceptable" social behavior. Often normative values are codified as standards in legislation or governmental regulations. Sometimes they are informal, such as rules of etiquette, tradition, or custom supported by a large portion of the population.

Preference values are preferences held by individuals, groups, or organizations, as distinct from society at large. Often preference values become normative values as they spread throughout a society.

3. Priorities and Likelihood Estimates for Establishing Significance. Thresholds provide a quantitative means for identifying impact intensities that would be considered significant by some affected interest, *if the impacts occurred at those intensities.* Priorities provide criteria for assigning relative importance to those thresholds. Likelihood estimates supply the probability that an environmental impact will exceed a certain threshold.

Priorities, thresholds, and likelihoods of occurrence all are considered in determining what impacts might be significant. The procedure is explained below (Section 4).

3.1 Priorities. The system described below is used to prioritize impact thresholds identified as significant to different affected interests. Priorities may be established by law, regulation, or other factors beyond the decisionmaker's control, by prior commitements, by professional expertise, or by a decisionmaker using his best judgment. If a question exists about which priority to assign, document (in a footnote) the rationale for choosing a particular priority.

The priorities are:

1. *Highest priority.* Threshold established by law or regulation. Not likely to change. Absolute. Threshold may not be exceeded under any circumstances.

2. *Very high priority.* Minimum or maximum constraint thresholds consistent with sound planning and resource use. Usually determined by, or concerned with, functional values of the ecosystem (with man as component). Thresholds rarely subject to change, and only in the light of new information. Should rarely be exceeded. Includes uncertainties and risks which, if misjudged, could result in major or massive irreversible and irretrievable effects on the ecosystem.

3. *High priority.* Thresholds usually established by normative values that are not formally codified in legal requirements, but which clearly carry the force of public opinion sufficient to delay or halt the action if ignored. Also includes thresholds that deal with uncertainties and moderate risks to the functioning of the ecosystem within different contexts.

4. *Moderate priority.* Thresholds that are highly visible or controversial preference values. These might be, or could become, normative values (borderline norms). These thresholds reflect major concerns by an often small, but influential, affected interest. This priority also includes functional thresholds with low risks to the ecosystem.

5. *Low priority.* Thresholds that are preference values of individuals and groups.

3.2 Qualitative Likelihood Estimates. Likelihood estimates can be qualitative or quantitative. Qualitative likelihood estimates are used during Stage 2 (Preliminary Analysis) to assist the decisionmaker in deciding whether an EA should be done or whether an EIS may be required. Quantitative estimates are explained in Appendix B.

Qualitative estimates fall into three categories. Where doubt or question exists, use footnotes to document the rationale for choosing a particular qualitative estimate:

Qualitative estimate	Probability definition
Category:	
A. High likelihood.	Greater than 50–50 chance of occurrence (Probability greater than 0.5).
B. Low likelihood.	Less than (or equal to) 50–50, but at least a 1-in-20 chance of occurrence (Probability 0.05–05).
C. Negligible.....	Less than 1-in-20 chance of occurrence (Probability less than 0.05).

4. Determining Significance Throughout the Analysis. Actions "significantly affecting the quality of the human environment" require an EIS [NEPA 102(2)(C)]. Except when a proposed action is categorically excluded, or when an EIS is required by policy, court order, or other similar mandate, the fundamental criterion for whether an EIS will be done is whether one or more impacts will be "significant."

A "catch 22" that exists under NEPA is that often it is not known beforehand whether impacts will be "significant." Technically, an EIS must be prepared in order to determine whether an EIS is required! This analysis and decisionmaking process deals with the problem by using the interaction of three factors to avoid unnecessary paperwork and delay (i.e., an unnecessary EIS), while assuring that all environmental analysis *required* for reaching better decisions is performed.

The three factors that determine significance of an impact are: (1) threshold quantities set for that impact by one or more affected interests; (2) priorities of those thresholds; and (3) likelihoods of the impact exceeding one or more thresholds.

These factors are introduced and considered during analysis at different times and in different ways, as described below. Worksheets 1 and 2, in conjunction with supporting analyses from relevant environmental disciplines, provide a record of what was considered and how significance was decided upon.

4.1 Analyzing Significance in Different Stages. Usually most issues will be identified during Stage 2 (Preliminary Analysis) and Stage 3 (Scoping and Planning the Analysis). Whenever issues are raised that are significant to some affected interest, use Worksheet 1 to record each issue separately. Work with those parties raising the issues to fill in as much of the worksheet as possible. Identify thresholds, and priorities, and likelihoods connected with the thresholds, wherever possible.

Unless there is good reason to quantify probabilities at this time, use qualitative categories (A, B, or C). To generate preliminary likelihood estimates, ask: How likely is this threshold to be exceeded by impacts resulting from any alternative in this proposal? In Stage 2, use Illustration A–2 (Identifying Significant Issues for Analysis) to assist in deciding which way to proceed at Decision Point 2B. Consider each threshold identified on Worksheet 1.

In Stage 3, use Illustration A–2 to focus further analysis on "significant issues to be analyzed in depth in the environmental impact statement" and to "identify and eliminate from detailed study the issues which are not significant" [40 CFR 1501.7(a)(2) and (3)].

In Stage 4, when preparing an EIS, use significant issues identified on Worksheet 1 to focus literature review and screen existing information. Concentrating on significant issues will reveal what information is applicable to the analysis and what additional information is needed to continue analysis.

Stage 5 uses Worksheets 1 and 2 to analyze significant issues and potential impacts associated with them, as well as to discover any other impacts that could be significant. In Stage 6, if public comment raises any issues not already addressed in an environmental document, handle those issues in the same way as in Stages 2 and 3, using Worksheets 1 and 2.

Worksheets 1 and 2 also assist the decisionmaker in reaching decisions (Stage 7) about implementing a proposed action, mitigating potential impacts, and monitoring, when necessary (Stage 8).

5. Worksheet 1: Explanation. Worksheet 1 is used to define the level of significance of a particular issue. On this worksheet, the following information is identified:

—Who is concerned.

—Specific aspects of the issue most critical to agencies, groups, or individuals (common denominators for discussion or measurement).

—The setting (context) in which the concern is to be discussed or measured. This may be a setting of time or geographic area, or it may be a social or cultural context.

—A baseline quantity (Column 6) from which to establish thresholds of concern (Column 8).

—Units of measurement.

—Threshold levels which, if exceeded, would be viewed as unacceptable by the individual or group concerned with that specific aspect of the issue.

—The priority of the concern. (This is the weight, or the degree of social expression, to be applied to the concern.)

Note that normally a high issue priority would most likely lead to a high impact priority. However, there may be high-priority issues or public concerns for which there may be little or no related impact. Issues are linked to impacts through priorities, thresholds, and likelihoods of impact occurrences.

5.1 *Issue.* Often when an issue is first raised, it is expressed only as a vague concern about changing a component or process of the ecosystem. Baseline information frequently is lacking, and the affected person or interest may be unable to quantify that concern.

Line 1 on Worksheet 1 provides space for writing that concern in the form of an unresolved question. Once you have written down what is affecting an interest, you have a starting point for analyzing the problem.

5.2 *Date.* For each line, write the date on which that line was begun. Rarely will you be able to complete a line immediately, but writing the date establishes the time that the issue was first raised. In some cases, certain entries on a line, such as a threshold value, priority, or likelihood estimate will change in the light of new information. If that happens, rewrite the entire line with a new date and new values. This provides a chronological record of how significant issues changed during analysis.

5.3 *Affected Interest.* The affected interest might be an individual, an interest group, a population, a government agency, or some other affected portion of the ecosystem. Usually an affected interest is the human being(s) raising an issue or concern.

5.5 *Indicator Component/Process.* An indicator tells us the condition of whatever we are concerned about. It can be a component or process of an ecosystem, or an index of some sort. Include the attribute used to describe the indicator.

A *component* is any structural feature of the ecosystem. It can be a species, a life form, a population, a socioeconomic class, a trophic level, a soil series, or any other element that is part of the ecosystem structure.

A *process* describes the way components function and interact. Ecosystem processes include birth, feeding, fire, migration, consumption, transporting, erosion, evaporation, etc.

An *index* often is a ratio that compares the condition of a component or process against some standard value or against some other component or process. The consumer price index is an example of the first type. Precipitation : evaporation ratios are an example of the second.

Another kind of index is related to thresholds. Air or water quality standards are examples of threshold values that serve as indices to the quality of our environment. These are usually expressed in specific units of measure, whereas ratio indices often have no units other than percentage.

Each component or process is characterized by certain *attributes.* Attributes describe different features, qualities, or characteristics of a component or process. Examples of attributes are weight, length, speed, color, etc.

Usually threshold values are given in terms of some attribute that is particularly characteristic of an ecosystem component or process. An example is vegetation (a component) as described by color, biomass, height, growth form, season of growth, etc., all of which are attributes.

Attributes of components are usually described by absolute units, such as kilograms, meters, liters, or units relative to space, such as kg/ha, numbers/acre, etc. The attribute most commonly used to characterize a process is some kind of rate (a quantity per unit time), such as visitors/year, kg/day, cubic ft/sec, tons/year. Growth rates are sometimes expressed as a percentage of the population or some part of it (e.g., births/thousand females).

5.5 *Context.* The context of any impact—the relationship of that impact to space, time, and other factors—plays a major role in determining the significance of that impact. Consider different contexts when evaluating intensity of an impact on different affected interests.

Spatial, or geographic, contexts include different areas, ranging from a specific site to the nation, and possibly beyond. Temporal contexts are the timing (e.g., season of year) and duration of an action, including long- and short-term considerations.

Also consider the following other factors when evaluating context for significance: uniqueness, controversy, legal violations, benefits and detriments, uncertainty and risk, setting precedent, cumulative effects, and public health and safety. These are explanined in 40 CFR 1508.27.

Finally, worksheets are used to help develop the environmentally preferable alternative. This alternative is used to help identify significant impacts resulting from other alternatives.

5.6 *Baseline Quantity.* An impact is a change in the ecosystem caused by an act of man. We must know what conditions exist now (including trends) and what conditions could exist sometime in the future without *further* intervention by man. Changes from these conditions are measures of impacts from the proposed action and its alternatives (except the no-action alternative). For each indicator, this status quo is described by a baseline quantity that includes trend estimates, where appropriate.

Baseline quantities for different indicators help describe the

environmental setting, or the existing conditions of the ecosystem, within which a proposed action will occur. These conditions are important to know as a basis for estimating impacts of the proposed action, alternatives to achieve the same purpose as the proposed action, and the no-action alternative.

Baseline descriptions should include information about (1) what is there and (2) where it appears to be going (trends).

5.7 *Units.* Components, processes, and indices are usually measured or described in some units. Specify one set of units for both baseline and threshold values.

5.8 *Threshold Quantity.* When a significant issue is first raised, try to determine the best indicator and the threshold for that indicator. Where different affected interests are concerned about the same issue, try to get everyone thinking in terms of the same units. This will simplify the problem of establishing thresholds.

For example, if sportsmen and wildlife managers are concerned about a deer herd that could be affected by a proposal, try to establish a single indicator to focus the issue on. It might be buck:doe ratios, mean weight per animal harvested, birth rate per 1000 does, etc. Then get each group to specify the thresholds they want, giving their reasons. Recording the reasons for any threshold helps the manager set priorities for any threshold value. Use footnotes, where necessary.

5.9 *Priority/Likelihood Category.* Priorities and criteria for assigning them are explained above (Sections 3 and 4). Include qualitative likelihood estimates in this column (Categories A, B, and C).

5.10 *Footnotes.* Use this space to clarify any entry on Worksheet 1 that needs further explanation. Document rationale for assigning priorities and likelihood categories wherever any doubt or question exists.

Illustration A–1.—Worksheet 1 Identifying Significant Issues

Use this worksheet in most stages of the environmental analysis and decisionmaking process to identify significant environmental issues, establish environmental impact thresholds, and set priorities on them. Further explanation is found in Appendix A, Guidebook Section 1791.

Instructions

In the upper right corner, place the EA or EIS number and title. Number each issue as it is raised.

1. *Issue.* Write the concern or issue as an unresolved question.

2. *Date.* Write the date on which this line is first established, even though some information might be missing from the line.

3. *Affected Interest.* Specify the interest that will be affected by exceeding the impact threshold.

4. *Indicator Component/Process.* Specify the component or process and attribute to be used as indicator or an impact.

5. *Context.* Describe spatial, temporal, and/or other context(s) of the impact, i.e., geographic area, duration, timing, uniqueness, etc. Check CEQ regulations (40 CFR 1508.27) for others Use footnotes to explain further, if necessary.

6. *Baseline Quantity.* Write a quantitative value for the existing condition (including trends) of the indicator component or process as it is currently know (i.e., the status quo). The value may be an estimate, or it may be based on research, inventory or other data. Where necessary, use footnotes to explain, particularly if quantitative values are not known.

7. *Units.* Specify the units, or dimensions, in which the indicator is described or measured. Use the same units for both baseline and threshold values.

8. *Threshold Quantity.* Write the quantity of the threshold value.

9. *Priority/Likelihood Estimate.* Assign a priority (1 through 5) to the threshold on this line and include a preliminary likelihood estimate (Category A, B, or C) of exceeding this threshold.

10. *Footnotes.* Use space on reverse side of worksheet to clarify any entry. Number all footnotes.

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Worksheet 1: IDENTIFYING SIGNIFICANT ISSUES

1. Issue _____ EA/EIS No. _____

_____ Title _____

_____ Issue No. _____

2. Date	3. Affected Interest	4. Indicator Component/Process	5. Context	6. Baseline Quantity	7. Units	8. Threshold Quantity	9. Priority/ Likelihood

Use a numbered footnote to identify any item or entry that requires further remarks. Write remarks on reverse side of page.

Worksheet 1: IDENTIFYING SIGNIFICANT ISSUES

1. Issue Disturbance of pronghorn critical winter range

EA/EIS No. _____

Title _____

Issue No. _____

2. Date	3. Affected Interest	4. Indicator Component/Process	5. Context	6. Baseline Quantity	7. Units	8. Threshold Quantity	9. Priority Likelihoo
	State Fish and Game	Sagebrush/winter fat	critical winter range 70,000 acres	70,000	acres	14,000 acres	5
	BLM wildlife biologists	"	Timing	"	"		4

Use a numbered footnote to identify any item or entry that requires further remarks. Write remarks on reverse side of page.

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Illustration A-2.—*Identifying Significant Issues for Analysis*

Priority	Likelihood category		
	A	B	C
1	Yes	No	No.
2	Yes	No	Omit.
3	Yes	No	Omit.
4	Maybe	No	Omit.
5	No	No	Omit.

Use this table to help decide whether an EIS is warranted, whether certain impacts should be mitigated (and how much), and which impacts to analyze in depth.

Stage 2. At decision point 2B, use the table to identify significant impacts. If thresholds on Worksheet 1 are identified as 1–A, 2–A, or 3–A priority/likelihood categories, there will probably be significant impacts from the proposal. A threshold rated 4–A is borderline; it may or may not be significant. The manager must decide this, on the advice of his staff.

If significant impacts are likely (Decision Point 2B), the decisionmaker has the option of returning the proposal for refinement to eliminate potentially significant impacts or reduce their likelihood through mitigation (Decision Point 2C). If this is done, the proposal recycles within Stage 2, and the analysis could then go into an EA mode (Decision Point 2E).

Stage 3. If the analysis goes into formal scoping, the priority/likelihood categories help the EIS team to develop the notice of intent (NOI). Issues rated 1–A, 2–A, 3–A, and possibly 4–A are listed in the NOI to alert the public to issues considered potentially significant by the BLM. Other issues may be listed also with their priority/likelihood categories to identify other concerns that are being considered for further analysis by the BLM.

Stages 4 and 5. Where gathering further information (Stage 4) to complete the analysis (Stage 5), concentrate the information search and analysis on significant issues. However, also analyze the lower categories (5–A through 1–C) in enough detail to make quantitative estimates on Worksheet 2 of their probabilities of occurrence. Issues falling into categories 2–C through 5–C do not need to be analyzed further, *unless* they change categories later.

Illustration A–3.—Focus of BLM Environmental Analyses on Affected Interest Values

In our pluralistic society, it is obvious that representative government must take account of issues and values which are important to various system levels (individuals, groups, organizations, etc.). It is not appropriate, however, for any particular environmental analysis to ignore the context [1] for significant determinations.

The CEQ NEPA regulations allow for a *systematic* process of tiering agency plans so that NEPA documents may "concentrate on the issues that are truly significant to the action in question" while allowing all pertinent values to be considered at some tier in the overall NEPA process. In BLM's application of the NEPA process to its activities, tiered planning will be utilized where appropriate as a means of focusing on the most germane values and as a means of reasonably limiting the range of alternatives considered for any particular action in question.

The following serves as a guide for determining the scope [2] of BLM environmental analyses conducted as part of Bureau planning pursuant to FLPMA and OCSLA. It shows for each planning tier a germane set of system levels, comprising the most immediate level of concern and interrelationships between that level and adjacent levels.

Illustration A–3

Level of system (affected interest)	Tier [1] of planning
International (ecosphere). National (society) Organization	Policy Development: focused on individual programs or specific program interrelationships. (a) National—guidance by BLM Director or higher levels in the Federal government. (May include development of international policies.) (b) State—guidance by BLM State Directors.
National (society) Organization Group	Land Use: focused on geographic regions.[3] In BLM, land use plans focus on a level of multiple use planning which in the past was represented by Management Framework Plans (MFPs) but now includes transition period MFPs, MFP amendments, and Resource Management Plans (RMPs).[3]
Organization Group Individual	Implementation: focused on functional (activity) plans for specific programs [4] and/or on specific project design or action decisions.

[1] 40 CFR 1508.28(a) (Plans may be tiered geographically or temporally.)
[2] 40 CFR 1502.4(c)(1); 40 CFR 1508.27(a) 40 CFR 1508.28
[3] 43 CFR 1601
[4] Not all programs in BLM utilize activity plans.

Appendix B.— Analyzing and Summarizing Impacts

1. Introduction. Change agents produce impacts, either direct or indirect, and direct impacts often cause indirect impacts over time and space. An impact is a change in the ecosystem caused by an act of man. Estimating the increment of change (increase or decrease) is the first step toward quantifying impacts and one of the most difficult tasks of the environmental analysis process. There is simply no way to predict most impacts with certainty.

However, by applying an organized, systematic approach to impact analysis, the interdisciplinary team can develop credible estimates and leave a clear record of how those estimates were derived. This appendix explains procedures for doing this through the use of a worksheet and two matrices. Worksheet 2 (Illustration B–1) is for identifying impacts. Matrix 1 (Illustration B–2) is used to summarize, for each ecosystem component and process affected, those impacts resulting from a single alternative. Matrix 2 (Illustration B–3) permits comparison of alternatives. Worksheet 3, used in an optional methodology, permits a deeper analysis and prediction of impacts.

2. Worksheet 2—Explanation. Worksheet 2 is designed for all levels of impact analysis, from preliminary analysis through analysis for a major EIS. It helps organize information from the proposal or plan and assists in identifying information needs. Instructions for filling out Worksheet 2 are provided in Illustration B–1.

2.1 *Alternative.* Reasonable alternatives must be explored and evaluated in the same way as the proposed action. The term "alternative" is used here to include the proposed action, no action, and any other reasonable alternative to the proposed action. Use this line to identify which alternative is being analyzed. It may be useful to identify alternatives with a letter, number, acronym, or other appropriate code.

2.2 *Implementation Stage.* Use this line for proposals that involve different stages of decision implementation. An example might be a coal mine, with a construction stage, an operational stage, and a rehabilitation stage. This information should be in the proposal or plan.

This line can also be used when analyzing a number of actions in a single, aggregated EA. In that case each action might be considered as an implementation stage for analysis purposes, particularly if it involves several subactions.

2.3 *Action.* An alternative will generate different types of actions, such as: clear-cutting, allocating grazing, controlling predators, drilling, road building, etc. Each action may produce several change agents. Use this line to list the action (or subaction) being analyzed.

2.4 *Major Ecosystem Component/ Process Affected.* Specify the major

[1] 40 CFR 1508.27(a).
[2] 40 CFR 1508.25.

ecosystem component being analyzed, such as soils, air, water, big game, vegetation, etc. This can also refer to a BLM program, such as minerals, range, outdoor recreation, forestry, etc.

2.5 *Change Agent.* A change agent is the cause of an impact. Change agents produced by man's actions cause primary impacts. Primary impacts often become change agents themselves to produce secondary impacts. Similarly, secondary impacts produce tertiary impacts, and so on into higher-order effects.

Use Worksheet 1 to track primary impacts through their higher-order effects. An interdisciplinary team should work together to identify both direct and indirect impacts. Direct impacts are the same as primary impacts. Indirect impacts include all higher-order effects.

One method that has been successful for tracking indirect impacts is described below:

Identify primary change agents with the letter *A* and a subscript. For instance, write "A_1 Clearing and grubbing; A_2 Cut, fill, and place culvert"; etc. The letter tells you that this is a primary change agent, and the subscript identifies that it is the first, second, etc., primary change agent listed on the worksheet. The rest of the line on Worksheet 1 describes the primary impact.

Use the same system to identify higher-order impacts, tying them to their change agents. For example, change agent A_2 will displace soil, which will produce secondary impacts. Write "B_{21} Soil displacement" for the secondary change agent. the letter *B* identifies it as a secondary change agent, the first subscript (2) links it to change agent A_2, and the second subscript (1) identifies it as the *first* indirect impact produced by A_2.

Soil displacement will reduce soil fertility by mixing horizons. It will also increase erosion and deposit silt in the creek. These are secondary impacts that are also tertiary change agents. Write "C_{211} Reduced soil fertility" and "C_{212} Silt deposition" to identify these new change agents. Again, the letter *C* identifies the agents as tertiary, and the subscript links the agents with earlier impacts that produced them.

A fourth-level change agent would be "D_{2121} Silt deposition." This change agent will affect the fish population. At this point, the wildlife specialist continues the analysis from the fishes' perspective.

The method described above is not essential. It is one way to link direct and indirect impacts. Other ways may be easier and more effective. Experiment!

2.6 *Increase/Decreases.* Use a + or − in this column to indicate whether the change agent increases or decreases the quantity of whatever is being impacted. Remember, *this column does not represent the commonly used terms "beneficial" or "adverse."* It is used to identify whether the change agent will increase or decrease something in the ecosystem.

2.7 *Impacted Component/Process.* A component is a structural feature of the ecosystem. It can be a species, a life form, a population, a socioeconomic class, a trophic level, a soil type, or anything else that describes part of the ecosystem structure.

A process describes the way ecosystem components function and interact. Examples of processes are birth, feeding, migrating, transporting, buying, erosion, evaporation, photosynthesis, etc.

An index sometimes may be used in this column as well. An example of a common index of agricultural soil quality is the carbon:nitrogen ratio.

Each component or process of an ecosystm is characterized by certain attributes, such as weight, length, speed, color, etc. Be certain to include the attribute used to describe the component or process.

2.8 *Estimated Quantity.* In order to be an impact, the quantity of a component or process must change as a result of man's acts. Estimate the increment of change in this column. If a single number is not possible, use a range or estimate a percent change.

2.9 *Units.* List the units used to describe the component, process, or index. Usually components are described by absolute units, such as kilograms, meters, liters, or units relative to space, such as kilograms/hectare, numbers/acre, numbers/mile, etc.

Processes usually are quantified as a rate (quantity per unit time), such as people/year, kilograms/day, acre-feet/year, cubic feet/second, etc. Because many indices are ratios, they often have no units. Percentages can also be used in this column, although use of a percentage change implies that baseline numbers are known.

2.10 *Duration.* Impacts last over some time period, ranging from a few hours or days through the life of any project and beyond. Estimate as quantitatively as possible the length of time that the impact will last. *Make certain not to use "short-term" and "long-term."*

2.11 *Probability.* Many impacts can occur as a result of an action. Not all are equally likely to occur. We are used to hearing daily weather forecasts of the "probability of precipitation." Use this column to estimate a quantitative "probability of impact."

Quantitative probability estimates always fall between zero and 1.0. They can also be expressed as percentages between zero and 100%. A zero probability means that an impact will never occur; a probability of 1.0 (or 100%) means that an impact will occur with certainty.

Quantitative probability estimates about any impact must always add to 1.0 (or 100%). For example, stating that an impact will occur with a probability of 0.75 (3 out of 4 chances of occurrence) implies that there is also a 0.25 probability that it will *not* occur (1 chance in 4).

Quantitative probabilities are used primarily during impact analysis (Stage 5) to identify the likelihood of any impact occurring. They are extremely important for analyzing impacts associated with significant issues. (See Guidebook 1791, Section 5.3A).

To estimate probabilities, ask "How likely is this impact to occur?" Is it a 50–50 chance? Ninety percent? Five percent? Write the estimate either as a percentage (so many chances out of a hundred) or as a decimal between zero and one.

Estimating probability of an impact is a real test of professional skill and judgment, but the manager must know which impacts are most likely to occur in order to make a sound, informed, intelligent decision.

2.12 *Relative Importance and Context.* Use this column to describe the context of an impact: How important will an impact be, and in relation to what?

Include synergistic effects. Synergistic effects are interactions among two or more impacts that together produce more impact than the simple sum of individual effects. An example is photochemical smog in which a mixture of pollutants is rendered more potent by reaction with sunlight than would be expected from the mixture under other conditions.

State ways in which the impact could be most important. For example, include (1) critical time period (spring, 15–30 April, etc.) and (2) critical area (winter range, breeding grounds, spawning area, etc.).

Ask: Is the impact important to functioning of the ecosystem or to the web of impacts generated by the action? Is it important in relation to impacts from other proposals or ongoing activities? Is the impact on a resource important relative to the total resource available, e.g., the total population of animals? Should the impact be analyzed

in more detail? Is it related to any significant thresholds on Worksheet 1?

2.13 *Footnotes.* Use numbered footnotes to explain any entry or continue any comments from the front of the worksheet. Document rationale for estimates of impacts and probabilities. For example, reference literature or any other worksheets or files used to develop estimates.

3. Summarizing Impacts. After the interdisciplinary team has estimated impacts, impacts should be summarized concisely. This is done in impact summary matrices after worksheets are completed.

3.1 Matrix 1: Impact Summary Matrix. To develop an impact summary matrix (Illustration B–2), list change agents from all pages of Worksheet 2 across the top of the matrix. List affected ecosystem components and processes down the left-hand side, along with their units.

In each intersection (space or cell of the matrix) where an impact is anticipated, write the quantitative estimate of that impact from column 8, Worksheet 2. A column on the extreme right of each matrix is used for the sum of all impacts caused by each change agent and/or impact on a particular component or process of the ecosystem.

For example, several different actions might increase sediment load. The cumulative impact on sedimentation would be the total of all impacts in the sedimentation row of the matrix. If the matrix is too large, it may be necessary to develop two or more matrices.

If any synergistic effects are expected beyond cumulative effects, explain them in the text of the report.

4. Comparing Alternatives. In order to choose among several alternatives, the alternatives must be comparable. Impacts of each alternative must therefore be calculated and displayed in such a way that the decisionmaker can decide quickly and objectively what the trade-offs between one alternative and another are. The comparison matrix (Illustration B–3) provides this capability.

4.1 Matrix 2: Comparison Matrix. Right-hand summary columns of impact summary matrices (Illustration B–2) can be used to develop a final comparison matrix for an environmental document. List alternatives across the top of the comparison matrix (Illustration B–3). Down the left side, list all ecosystem components and processes, with units, that will be impacted by any alternative.

Write all impacts resulting from one alternative in a single column of the matrix. These values come from the right-hand columns of impact summary matrices. Use text to describe potential synergistic effects and to explain any other impacts requiring further clarification.

* * * * *

Optional Methodology

5. *Expected Impact Calculations.* There is no way to predict most impacts accurately *and* with certainty. Worksheet 2 provides space for a "one-number" estimate of both an impact and the probability of that impact's occurring. This estimate, however, is usually the impact voted by the experts as most likely to occur.

Practically, we know there are several possible impact intensities that can occur to a single ecosystem component or process from a single change agent. These impact intensities fall along a continuum with an upper and lower limit (i.e., a range of possible impact intensities). They also vary in probability of occurrence.

The following approach considers the range and continuum of possible impacts, using simple, traditional methods of risk analysis for business and economies. It allows the user to project impacts more systematically and accurately (1) by including in the estimate the range and some intermediate values, and (2) by recognizing the uncertainties associated with these values.

This method is particularly recommended for analyzing environmental impacts associated with significant issues.

5.1 Worksheet 3. Worksheet 3 (Illustration B–4) permits the analyst to look more closely at any impact identified on Worksheet 2 and calculate an *expected impact.* The technique formulates an *expectation* of what an impact will be by identifying several specific, quantitative impacts on an environmental component or process, then associating a probability (likelihood of occurrence) with each increment of change.

An expected impact is a composite value based on several estimates for any specific impact, together with the probability of occurrence for each estimate. It is denoted by the symbol E(I). Specific instructions for calculating E(I) using Worksheet 3 are found in Illustration B–4.

Blanks at the top of Worksheet 3 should contain the same information found in the first two sections of Worksheet 2. This links the two worksheets. Line 4 is used to develop a sentence that summarizes the impact from Worksheet 2. Line 5 identifies the significant issue (if any) associated with this environmental impact.

The rest of Worksheet 3 provides space for calculating (1) an expected impact, E(I); (2) estimates of relative and absolute variability; (3) percentage change from existing conditions; and (4) the probability of an impact's exceeding a high-priority threshold value.

Use Worksheet 3 selectively to analyze impacts associated with significant issues, or impacts that have potential for causing other problems. *It should not be used routinely for each impact identified on Worksheet 2.*

5.2 Impact Sentences. An *impact sentence* is a simple declarative sentence. It can be written for any change agent that produces an impact, based on any line across Worksheet 2.

A. Example Impact Sentence. Logging 40 Acres in June at NW¼, SE¼, Sec 22, T6N, R30W, 6PM will probably increase sedimentation in Beaver Creek to 60 mg/l during the first year; this is an increase of 100% over the long-term mean for the watershed, compared with normal annual fluctation of 67%: the additional sedimentation is not likely to have effects on other resource values in this stream.

5.3 Estimating Impact Likelihoods. An expected impact is essentially a weighted average of impact estimates. Individual experts, or the interdisciplinary team itself, first estimate several values for a particular impact, beginning with a range and a most likely value (a mode).

If so little is known about the impact that only three values can be estimated (a range and mode), then use these values as follows: Write the three values in column 8 of Worksheet 3, beginning at the top with the lowest value and progressing downward through the highest (Illustration B–5). Write the probability of the occurrence on the left side of column 9 under *Indiv. (P).* At the same time under *Cum.,* sum the probabilities cumulatively. They must sum to 1.00.

A. Example. The interdisciplinary team has determined that one of the change agents will be logging 40 acres at some location in June. The forest hydrologist wrote the impact sentence presented in Section 2.A, above.

In a meeting of the interdisciplinary team, the leader asked him to provide a range for that estimate. The hydrologist estimated that in a dry year, sedimentation might not get above 30 mg/l, whereas under extremely wet conditions, the sediment load might reach 80 mg/l. The probabilities of occurrence for these three values were about 15% of the time for each end of the range and 70% of the time for the most likely estimate.

The team then calculated the expected impact from those estimates by multiplying each impact by its "weight," or probability, and adding the results:

Impact (mg/1)	Likelihood of occurrence (probability)
30	.15
60	.70
80	.15
	1.00

$$E(I)=30(.15)+60(.7)+80(.15)=4.5+42.+12.=58.5$$

The more he thought about this value of E(I), the more uncomfortable the hydrologist became with it. He thought it should really be a bit higher, but he also felt the range was about right.

He then took a closer look at the probabilities and came up with the following distribution, based on whether records for the area:

Impact (mg/1)	Likelihood of occurrence (probability)
30	.05
40	.05
50	.1
60	.5
70	.2
80	.1
	1.00

He then calculated a new E(I) by multiplying each impact times its probability and adding the results together:

$$E(I)=30(.05)+40(.05)+50(.1)+60(.5)+70(.2)+80(.1)=60.5\ mg/1$$

This value was closer to the hydrologist's original single estimate of 60 mg/1, and was even slightly higher. It also conformed with the hydrologist's professional understanding of weather patterns and his knowledge of sedimentation history for the area.

Furthermore, his misgivings about the first estimate (58.5) forced him to look further and derive better-informed estimates. In this case, he learned that, although his range was about right (30 to 80), the area had a predominance of wet weather, so the likelihood of the minimum occurring was less than that of the maximum occurring, and the impacts were more likely to be at the higher end of the range. His investigations enabled him to construct the probability distribution and provide estimates that were more defensible and credible.

5.4 Measures of Variability. Another advantage of calculating an expected impact is that it permits estimating variability. The concept of expectation is central to basic statistical theory: The mean, or arithmetic average, is defined formally as an expected value.

Where only a range and mode are estimated, the range is suitable for some indication of extreme variability. However, using this method, it is possible to calculate a better measure of variability than the range. This measure is the classical standard deviation of statistics.

Calculating a variance and standard deviation is somewhat more complicated than calculating an expected impact. However, the use of statistics has become so widespread that many pocket and desktop calculators have keys to make these calculations routinely. The example below uses a method of calculation that illustrates what the variance and standard deviation are. Worksheet 3 uses a method of calculation that is more efficient (items 10 through 17, Illustration B–6). Both methods arrive at the same answer.

Determining the variance of an expected impact means knowing how much each estimated impact deviates from the mean, or expected impact. This is calculated by subtracting E(I) from each individual estimate.

To calculate the variance, square each deviation, multiply the squared value by its probability, and sum the results. Estimate the standard deviation by taking the square root of the variance (line 17).

A. Example. Using the hydrological problem above, calculate the variance and standard deviation as follows. E(I) is 60.5 mg/1. (The following table is for demonstration only. Worksheet 3 uses a different computational method to arrive at the same answer.)

Impact (mg/1)	Probability	[Impact-E(I)]	[Impact-E(I)]2
30	0.05	−30.5	930.25
40	0.05	−20.5	42.25
50	0.1	−10.5	110.25
60	0.5	−0.5	0.25
70	0.2	9.5	90.25
80	0.1	19.5	380.25

The variance of E(I) is written as Var(I). It can be calculated as follows:

$$Var(I)=930.25(.05)+420.25(.05)+110.25(.1)+0.25(.5)+90.25(.2)+380.25(.1)=134.75$$

To calculate the standard deviation about the expected impact, extract the square root of Var(I). The standard deviation is written S(I).

$$S(I)=134.75=11.608$$

The expected impact and an estimate of its variability can be written:

$$E(I)\pm S(I)=60.5\pm 11.6\ mg/1$$

5.5 Comparing Variability. Estimates of expected impacts and their deviations can be used to compare variability of different types of impacts, even when units are far different. This is done by calculating a coefficient of variation (line 18). The coefficient of variation, CV, is a percentage of deviation. It is simply the ratio of the standard deviation, S(I), to the expected impact, E(I), expressed as percentage.

In the above problem, the coefficient of variation is calculated as follows:

$$CV=\frac{S(I)}{E(I)}\times 100=\frac{11.6}{60.5}\times 100=19\%$$

5.6 Percentage Change. Often the significance of an impact will be determined by the amount of change from existing conditions in the ecosystem. Line 19 provides space for estimating that amount of change in terms of percent. This relative value (percentage of existing conditions) is often more revealing than absolute quantities of change.

5.7 Exceeding Thresholds. Worksheet 1 contains threshold values for impacts associated with significant issues. Each threshold is assigned a priority, as explained in Appendix A. Lines 20 through 22 provide space for determining the probability of exceeding a high-priority threshold.

On line 20, insert the most important threshold for this issue as identified on Worksheet 1. Write the priority of that threshold on line 21. Calculate the probability of exceeding that threshold and insert the answer on line 22.

This is calculated from columns 8 and 9, as follows:

A. Upper Thresholds. If the threshold is near the upper end of the range, use the following method.

A.1. Locate the two quantities in column 8 that bracket the threshold value (i.e., the two numbers on either side of the threshold).

A.2. For the *smaller* of these two numbers, find the *cumulative* probability on the right side of column 9. If the threshold value appears in column 8 exactly, use its cumulative probability, rather than the smaller value.

A.3. Subtract the cumulative probability from 1.00 and write the answer on line 22.

B. Lower Thresholds. If the threshold is at the low end of the range, use the following method.

B.1. Locate the two quantities in column 8 that bracket the threshold value (i.e., the two numbers on either side of the threshold).

B.2. For the *larger* of these two numbers, find the *cumulative* probability on the right side of column 9.

If the threshold value appears exactly in column 8, use its cumulative probability, rather than the larger value.

B.3. Write the cumulative probability on line 22.

C. *Explanation.* The value on line 22 is the probability that an impact will exceed the threshold value on line 20. Where a threshold value does not appear in column 8, the above method of selecting the nearest value provides a conservative probability estimate.

Illustration B–1.—Instructions for Worksheet 2 Identifying Impacts

Use this worksheet in field and office to make initial estimates of direct and indirect environmental impacts. Further explanation is found in Appendix B, Guidebook Section 1791.

Instructions

Place the EA or EIS number, title, location, date, and the analyst's name in the upper right corner.

1. *Alternative.* Identify the alternative briefly with a letter, number, acronym, or other appropriate code.

2. *Implementation Stage.* Use this line only for larger projects that are subdivided into different implementation stages.

3. *Action.* Insert a specific action associated with the alternative or decision implementation stage.

4. *Major Ecosystem Component Affected.* Insert the major ecosystem component being analyzed for impacts.

5. *Change Agent.* Write the primary, secondary, or higher-order change agent producing an impact. Designate primary change agents with *A*, secondary with *B*, etc.

6. *Increases/Decreases.* Insert a + or − in this column to indicate whether a change agent increases or decreases the ecosystem component or process being considered on this line.

Note.—Use the + or − to indicate a change in some *quantity* associated with the component or process. *Do not make any value judgments about beneficial or adverse impacts.*

7. *Impacted Component or Process.* Name the ecosystem component, process, or index being affected by the change agent. Include the descriptive attribute.

8. *Estimated Quantity.* The quantity of the component, process, or index will change (+/−) by some number. If possible, estimate that number. If no numerical estimate is possible, place a percentage in this space or leave it blank.

9. *Units.* List the units, or dimensions, in which the component or process is usually described. If the impact is one for which a threshold has been established, use the same units as on Worksheet 1.

10. *Duration.* Impacts last over some time period. Estimate that period, based on the proposal or plan. Give a range, if necessary, but *avoid the use of "short-term" and "long-term."*

11. *Probability.* Not all impacts are equally likely. Whenever possible, assign a "probability of occurrence" to the impact estimate on this line.

12. *Relative Importance or Context.* The impact, or estimated change, may be important in relation to other components and processes, or within other contexts of the ecosystem. Use this space to briefly evaluate that relative importance.

13. *Footnotes.* Use this space to expand on any entry on the front of the sheet. Insert baseline values for existing conditions, where known. Number all footnotes.

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Worksheet 2: IDENTIFYING IMPACTS EA/EIS No. _____ Title _____

1. Alternative _____ 3. Action _____ 4. Major Ecosystem Component Affected _____ Date _____ Location _____

2. Implementation Stage _____ By _____ Page ____ of _____

5. Change Agent	6. Increases/ Decreases	7. Impacted Component/Process	8. Estimated Quantity	9. Units	10. Duration	11. Probability	12. Relative Importance and Context

Use a numbered footnote to identify any item or entry that requires further remarks. Write remarks on reverse side of page.

Worksheet 2: IDENTIFYING IMPACTS EA/EIS No. _____ Title _____

1. Alternative A 3. Action Laying Pipeline 4. Major Ecosystem Component Affected Vegetation Date _____ Location _____

2. Implementation Stage _____ By _____ Page ___ of ___

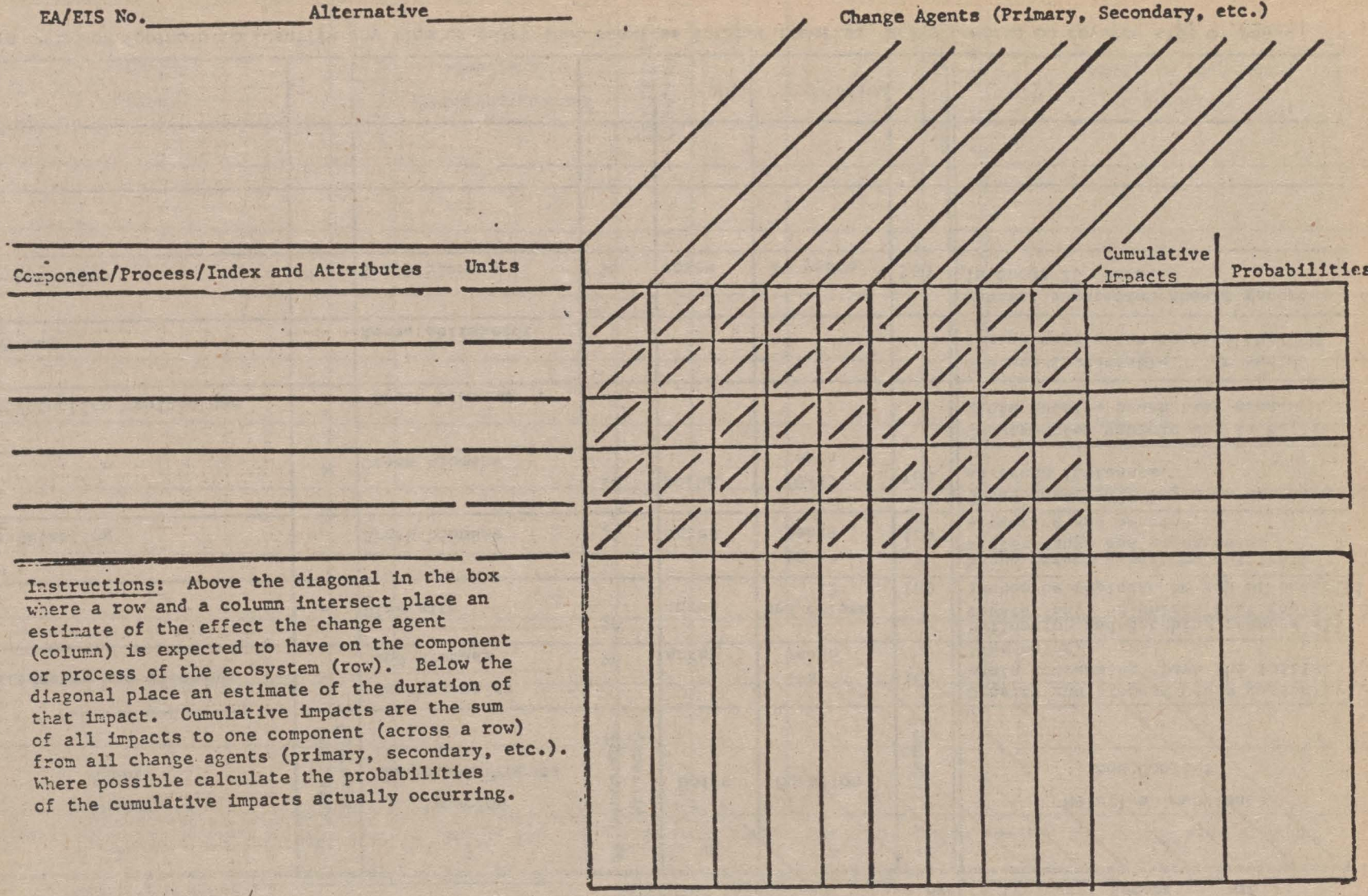
5. Change Agent	6. Increases/ Decreases	7. Impacted Component/Process	8. Estimated Quantity	9. Units	10. Duration	11. Probability	12. Relative Importance and Context
Bulldozing and ditching	-	Brush density and Biomass	20	acres	2-5 years	100	Density and biomass would gradually begin increasing above the initial loss point.
"	-	Diversity	20	acres	see column 12	100	Bulldozing and ditching removes all vegetation. Stipulate that top 6-8 inches be replaced on top of backfill
Brushbeating	-	Brush biomass	36	acres	10-15 years	100	Might affect pronghorn critical winter range and sagegrouse strutting and nesting.
"	+	Grass biomass	36	acres	10-15 years	100	Grass cover will begin to decrease as brush increases.
Construction vehicle use	-	Brush biomass					Construction vehicle use is negligible outside brush beat area.
ORV use	-	Re-establishment					ORV use is variable. It could damage vegetation outside the ROW.
Revegetation	+	Grass biomass	56	acres	20 years	100	Natural vegetation should return in about 20 years.

Use a numbered footnote to identify any item or entry that requires further remarks. Write remarks on reverse side of page.

Illustration B-2

Matrix 1: Summary Impact Matrix

EA/EIS No._____ Alternative_____



Instructions: Above the diagonal in the box where a row and a column intersect place an estimate of the effect the change agent (column) is expected to have on the component or process of the ecosystem (row). Below the diagonal place an estimate of the duration of that impact. Cumulative impacts are the sum of all impacts to one component (across a row) from all change agents (primary, secondary, etc.). Where possible calculate the probabilities of the cumulative impacts actually occurring.

Illustration B-2

Matrix 1: Summary Impact Matrix

EA/EIS No. _____ Alternative A

The numbers and information in the boxes are not necessarily realistic but they do illustrate how to use the matrix.

Change Agents (Primary, Secondary, etc.)

Component/Process/Index and Attributes	Units	Clearing and Grubbing	Bulldozing and ditching	Backfilling	Maintenance	CRV use					Cumulative Impacts	Probabilities
Soil Erosion	tons/acre	0.6 / 1mo	1.2 / 1mo	0.5 / 1mo	0.2 / 1mo	0.4 / 1mo	/	/	/	/	3/ 1mo	60%
"	"	0.35 / 5yr	0.75 / 5yr	0.35 / 5yr	0.10 / 5yr	0.25 / 5yr	/	/	/	/	1.8/ 5yr	60%
Sedimentation (added load to stream)	mg/l	60 / 1mo	120 / 1mo	60 / 1mo	30 / 1mo	30 / 1mo	/	/	/	/	300/ 1mo	75%
"	"	10 / spawn	20 / spawn	10 / spawn	5 / spawn	5 / spawn	/	/	/	/	50/ spawning	75%
		/	/	/	/	/	/	/	/	/		

Instructions: Above the diagonal in the box where a row and a column intersect place an estimate of the effect the change agent (column) is expected to have on the component or process of the ecosystem (row). Below the diagonal place an estimate of the duration of that impact. Cumulative impacts are the sum of all impacts to one component (across a row) from all change agents (primary, secondary, etc.). Where possible calculate the probabilities of the cumulative impacts actually occurring.

Illustration B-3

Matrix 2: Comparison Matrix

EA/EIS No._____

Component/Process/Index and Attributes	Units	Alternatives							Thresholds	Affected Interest	Priority

Instructions: Below the diagonal in each space (row/column intersection) place an estimate of the effect an alternative (column) is expected to have on a component or process (from the cumulative impacts column of Matrix 1). Place an estimate of the duration of the impact below the diagonal. List thresholds for significance together with affected interests in the next two columns. Place the priority assigned to each threshold in the last column. Use an asterisk to identify each impact in the matrix where synergistic effects are a factor.

Matrix 2: Comparison Matrix

EA/EIS No._____

The numbers and information filled in the boxes are not necessarily realistic but they do illustrate how to use the matrix.

Component/Process/Index and Attributes	Units	Alternatives A	B	C	D	E	F	G	Thresholds	Affected Interest	Priority
Soil erosion	tons/acre	3 / 1mo	2.5 / 1mo	4 / 1mo	2.75 / 1mo	2.5 / 1mo	/	/	/		
	"	1.8 / 5yr	.75 / 5yr	2.1 / 5yr	1.1 / 5yr	1 / 5yr	/	/	/		
Sedimentation (added load to stream)	mg/l	300 / 1mo	250 / 1mo	325 / 1mo	265 / 1mo	225 / 1mo	/	/	/		
	"	50 / spawn	40 / spawn	60 / spawn	45 / spawn	45 / spawn	/	/	45 / during spawning	State Fish & Game	
		/	/	/	/	/	/	/	/		

Instructions: Above the diagonal in each space (row/column intersection) place an estimate of the effect an alternative (column) is expected to have on a component or process (from cumulative impacts column of Matrix 1). Place an estimate of the duration of the impact below the diagonal. List thresholds for significance together with affected interests in the next two columns. Place the priority assigned to each threshold in the last column. Use an asterisk to identify each impact in the matrix where synergistic effects are a factor.

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Illustration B–4.—Instructions for Worksheet 3 Expected Impact Calculations

This worksheet is recommended for use in analyzing impacts associated with significant issues.

Instructions

Place the EA or EIS number in the upper right corner. This number should correspond to the number on Worksheets 1 and 2, Guidebook 1791, Appendices A and B, respectively.

1.–3. *Alternative, Implementation Stage, and Action.* These should all correspond to the same items on Worksheet 2.

4. *Impact Sentence.* From the appropriate line of Worksheet 2, develop a declarative sentence that describes the impact on that line. State whether the change agent will increase or decrease the affected ecosystem component or process (Worksheet 2, columns 5, 6, and 7).

Include duration (column 10) and the relative importance and context of the impact (column 12). *No.*—Write the page number and line number of the impact being anlyzed from Worksheet 2 (e.g., "3/7" would refer to line 7 on the third page of Worksheet 2. There could be five pages of Worksheet 2 filled out.).

5. *Issue.* If this impact is associated with a significant issue identified on Worksheet 1, write that issue on this line. Include the issue number.

6. *Impact Estimates and Calculations.* If using a desktop calculator, fill out all columns. If a programmable calculator or a computer is used, fill out only columns 8 and 9, since the computations will be made automatically.

7. *Units.* Specify units used to describe the impact from column 10, Worksheet 2.

8. *Quantity (I).* In this column, estimate several different quantitative values for possible impacts. Try to estimate at least three: a mode (most likely value) and a range (extreme values). Begin on the top line with the smallest value and work down toward the largest.

9. *Probabilities. Indiv. (P).* Next to each quantitative impact in column 8 estimate a probability of that impact's occurring. Write probabilities as decimals between 0.0 and 1.00, not percentages.

If professional judgment is used (i.e., no hard data exist), begin by estimating the probability of the most likely impact (mode). Then estimate the probabilities of the extremes occurring. Third, assign probabilities to the remaining impact estimates in column 8. Sum the probabilities. If they do not total 1.00, re-evaluate and juggle your estimates until (1) they sum to 1.00 *and* (2) your professional judgment is comfortable with the estimates. It may be useful to fill out, or at least review, this column and column 8 in consultation with an interdisciplinary team.

Cum. After estimating individual probabilities, sum the individual probabilities cumulatively in this column.

10. $I \times P$. Multiply each impact estimate from column 8 by its individual probability in column 9 and write the result in column 10.

11. I^2. Square the impact estimate from column 8 and write the result in column 11.

12. $I^2 \times P$. Multiply the squared impact from column 11 by the probability in column 9. Write the result in column 12.

13. *Totals.* Sum columns 9, 10, and 12. Column 9 must always total 1.00.

14. $E(I) = Sum\ IP$. The total of column 10 is the expected impact, E(I).

15. $Sum\ I^2 \times P$. The total of column 12 is used to calculate the variance of E(I).

16. *Var(I).* Write the value from line 15 in the first blank space. Square E(I) (line 17), and write the result in the second blank. Subtract the second number from the first and write the result in the third blank on line 16. This is the variance of E(I).

17. *S(I).* Calculate the standard deviation of E(I), denoted by S(I), by taking the square root of Var(I). Write the result on line 17.

18. *CV.* Write S(I) in the first blank on line 18. Write E(I) from line 14 in the second blank, divide the first by the second, and multiply by 100. Write the coefficient of variation in the last blank.

19. *Percentage Change.* Estimate the percentage change represented by E(I), using a + or − to denote an increase or decrease.

20. *Threshold.* Select the most critical threshold from the issue identified on Worksheet 1 and insert that quantity here.

21. *Priority.* Insert the threshold's priority from Worksheet 1.

22. *Probability of Exceeding Threshold.* For an upper threshold, locate (in column 8) the closest *smaller* value to the threshold (i.e., the next smallest). Subtract the cumulative probability opposite that number (column 9) from 1.00, and write the answer on this line. For a lower threshold, use the closest *larger* value to the threshold, and use the cumulative probability without subtracting from 1.00. If the exact threshold value is listed in column 8, use it instead of the next smaller or larger.

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EA/EIS No. _____

Page ____ of _____

WORKSHEET 3: EXPECTED IMPACT CALCULATIONS

Date _____

By _____

1. Alternative _____ 2. Implementation Stage _____ 3. Action _____

4. Impact Sentence _____

_____ No. ____

5. Issue _____

_____ No. ____

6. Impact Estimates and Calculations

7. Units _____

8. Quantity (I)	9. Probabilities Indiv.(P)	Cum.	10. I x P	11. I^2	12. $I^2 \times P$
13. TOTALS	1.00				
			14. E(I)=Sum IP		15. Sum $I^2 \times P$

16. $Var(I) = \underset{\text{Sum } I^2P \text{ (line 15)}}{_____} - \underset{[E(I)]^2}{_____} = _____$

17. $S(I) = \underset{\sqrt{Var(I)}}{_____}$ 18. $CV = \underset{S(I)}{_____} \div \underset{E(I)}{_____} \times 100 = _____ \%$

19. Percentage Change (+/-) _____ % 20. Threshold _____ 21. Priority _____

22. Probability of Exceeding Threshold _____

Illustration B-5

EA/EIS No. _____

Page ___ of ___

WORKSHEET 3: EXPECTED IMPACT CALCULATIONS

Date _____

By _____

1. Alternative: RMP - 2
2. Implementation Stage: Timber Sale
3. Action: Logging

4. Impact Sentence No. ___: Logging 40 acres in June at this location will probably increase sedimentation in Beaver Creek to 60 mg/l during the first year; this this is an increase of 100% over long-term watershed mean, compared with normal and annual fluctuation of 67%; the additional sedimentation is not likely to affect other resources

5. Issue No. 6: Will sedimentation form logging affect trout spawning in Beaver Creek?

6. Impact Estimates and Calculations

7. Units: Mg/l

8. Quantity (I)	9. Probabilities Indiv.(P)	Cum.	10. I x P	11. I^2	12. I^2 x P
30	.15	.15	4.5	900	135
60	.70	.85	42	3600	2520
80	.15	1.00	12	6400	960
13. TOTALS	1.00	1.00	58.5		3615
			14. E(I)=Sum IP		15. Sum I^2 x P

16. $Var(I) = \frac{\text{Sum } I^2P \text{ (line 15)}}{3615} - \frac{[E(I)]^2}{3422.25} = 192.75$

17. $S(I) = \frac{13.8834}{\sqrt{Var(I)}}$

18. $CV = \frac{13.9}{S(I)} \div \frac{58.5}{E(I)} \times 100 = 32.7\ \%$

19. Percentage Change (+/-) 95 %

20. Threshold 85

21. Priority 3

22. Probability of Exceeding Threshold - 0 -

Illustration B-6

EA/EIS No. _____

Page ____ of _____

WORKSHEET 3: EXPECTED IMPACT CALCULATIONS

Date _____

By _____

1. Alternative: RMP-2
2. Implementation Stage: Timber Sale
3. Action: Logging

4. Impact Sentence: Logging 40 acres in June at this location will probably increase sedimentation in Beaver Creek to 60 mg/l during the first year; this is an increase of 100% over long-term mean for watershed, compared with normal annual fluctuation of 67% the additional sediment is not likely to affect other resources. No. 17

5. Issue: Will sedimentation from logging affect trout spawning in Beaver Creek? No. 6

6. Impact Estimates and Calculations

7. Units: Mg/l

8. Quantity (I)	9. Probabilities Indiv.(P)	Cum.	10. I x P	11. I^2	12. $I^2 \times P$
30	.05	.05	1.5	900	45
40	.05	.1	2.0	1600	80
50	.1	.2	5.0	2500	250
60	.5	.7	30.0	3600	1800
70	.2	.9	14.0	4900	980
80	.1	1.00	8.0	6400	640
13. TOTALS	1.00	1.00	60.5		.3795
			14. E(I)=Sum IP		15. Sum $I^2 \times P$

16. $Var(I) = \underset{\text{Sum } I^2P \text{ (line 15)}}{3795} - \underset{[E(I)]^2}{3660.25} = 134.75$

17. $S(I) = \underset{\sqrt{Var(I)}}{11.6082}$

18. $CV = \underset{S(I)}{11.6} \div \underset{E(I)}{60.5} \times 100 = 19.2\ \%$

19. Percentage Change (+/-) 102 %

20. Threshold 85

21. Priority 3

22. Probability of Exceeding Threshold - 0 -

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1791 Appendix C.—Identifying Reasonable Alternatives

BLM's responsibilities for multiple use resource management in the public interest and the mandates of Sections 102(2)(C)(iii) and 102(2)(E) of NEPA require managers to consider alternative uses of available resources. Public involvement in the NEPA process helps managers to explore the full range of reasonable alternatives. This range may include alternatives which make use of less than all of the resources [FLPMA, 103(c)] in the short-term, thereby retaining options for future generations.

The requirement [NEPA, 102(E)] to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources" poses different challenges and requires different approaches depending upon the action being analyzed. Actions fall under the following categories: resource management plans (RMP's): RMP amendments; site-specifications involving significant impacts; site-specifications involving impacts that are not significant; and/or the upper levels of tiered analyses (e.g. regionals and programmatics). Geographic or temporal tiering may involve actions falling within more than one of these categories.

The following types of alternatives are considered: (A) alternative management approaches (for RMP's, and regional and programmatic analyses): (B) alternative uses of available resources (for all categories of actions); (C) partial (e.g. route segment, project component, etc.); system (alternative ways of achieving all or part of the objectives of the proposal), timing and location alternatives (for all categories of actions); and (D) mitigation measures (for all categories of actions). Alternatives evaluated in alternative type (A) usually comprise part of each of the other alternatives types. The level of specificity of alternative types (B), (C) and (D) will usually be greater in site-specific proposals than when considered in an analysis for alternative type (A).

Before an environmental analysis can begin to explore alternatives, the purpose *and* need for the action must be clearly understood. Alternatives do either of the following (1) meet all or part of the stated objectives of the proposed action, or (2) involve a different use of the resources which would have been committed had the proposed action been approved.

A. Alternative Management Approaches

1. RMP's: The analysis of alternative management options for RMP's (43 CFR 1601.5–5) helps establish different sets of goals and objectives for managing the resource area and different ways of achieving the same set of goals and objectives. The set of objectives approved for the RMP will guide the manager's decisions at the activity planning stage. Alternatives may range from allowing maximum natural sucession to maximum technological human use. Maximizing certain "uses" of resources while preserving or sacrificing others falls in between the two extremes and falls more under the second type of alternatives (alternative uses of available resources).

If a manager wants to explore broad alternatives to an existing RMP, it means a revision of the RMP. Minor changes can usually be handled as an RMP amendment and will either be documented as an EA or an EIS. Revisions of the total management approach may be necessary if the existing environment, or local, regional or national needs have changed to an extent that the existing RMP is no longer current.

1. RMP's and RMP amendments: The RMP and its associated EIS form one part of the upper tier (along with programmatic and regional studies) of environmental of environmental analysis. An such, a thorough and objective analysis is essential. It will be used in subsequent site-specific analyses to define the alternatives that have been covered.

2. Regional analysis: Regional analyses function as an upper tier of environmental analysis in that they set goals and objectives and a management approach using a regional, rather than resource area perspective.

3. Programmatic analyses: Programmatic analyses set goals and objectives and a management approach from a program rather than geographic perspective.

Programmatic goals and objectives and regional goals and objectives are used to help determine goals and objectives for an RMP by limiting the range of reasonable alternatives.

B. Alternative Uses of Available Resources

NEPA requires agencies to explore alternatives to proposals involving "unresolved conflicts concerning alternative uses of available resources." This type of alternatives consideration is necessary for all categories of actions.

1. RMP's, RMP amendments, regionals, and programmatics: These upper tiers of environmental analysis should resolve some conflicts among alternative uses of resources. Many of these conflicts cannot be resolved until the lower tiers (e.g. site-specific analyses), but the conflicts resolved to establish the management approach help set limits on the alternatives to be explored in the lower tiers.

In RMP's a preferred action may stress the allocation of certain resources at the expense of others. Alternatives may investigate alternative allocation of the resource or a balance somewhere in between. Alternatives mentioned in the planning regulations (43 CFR 1601.5–5) range from favoring resource protection to favoring resource protection to favoring resource production, but even within these there are still many remaining conflicts which must be resolved either on a broad RMP basis or on an individual action or activity planning level.

2. Site-specifications involving impacts that are not significant: Although the significance determination cannot be made until the environmental analysis process is complete, this discussion focuses on how to determine the reasonable alternatives for analysis.

(a) If the proposal and its impacts (in an area with an existing RMP) are found to be in conformance with the RMP, the team must explore the "no action" alternative and any other "resonable alternatives" identified during stages 1–5 of the environmental analysis process (including those identified by the Bureau in carrying out its stewardship responsibilities). Alternatives that are not in conformance with the RMP need not be explored. This illustrates how tiering can be used to limit alternatives in the lower tiers.

Three criteria may be used to limit the range of reasonable alternatives. the alternatives to be considered should: (1) result in less or different environmental impact than the proposal; (2) meet more or different goals and objectives for the RMP area; or (3) meet more or different goals of NEPA, FLPMA, and/or the OCS Lands Act (BLM Guidebook 1790, Appendix A). The above criteria are used to make full use of the tiering concept; but, as the analysis proceeds, judgment or public input may indicate that another alternative must also be explored.

(b) If the proposal and its impacts are not in conformance with the existing RMP it is handled as described in the planning regulations for plan amendments. The analysis is documented as an EA.

(c) In instances where there is no approved RMP, the alternatives considered should: (i) result in less or

different environmental impact; or (ii) meet more or different goals and objectives of NEPA, FLPMA and/or the OCS Lands Act.

3. Site-specific actions involving significant impacts: If significant impacts are expected from a proposed action, two questions must be answered before deciding to prepare an NOI to begin an EIS or to proceed with analysis for an EA: (a) is the proposed action in conformance with an existing RMP; and (b) if it is, does the EIS for the RMP cover the action specifically or within consideration of cumulative impacts, and is this coverage adequate?

(a) If the proposed action *is not* in conformance with an existing RMP, an EIS must be prepared. The "no action" alternative and a range of alternatives in conformance with the RMP must be explored.

3 (b) If the proposed action *is* in conformance with an existing in the RMP/EIS or (ii) the cumulative impacts in the RMP cover the impacts of the action.

(i) If the proposal *is* specifically covered in the RMP/EIS and the coverage is still current, the decision approving or disapproving the proposal can be made and the previous analysis referenced in the record of decision. This record of decision must conform to the requirements of 40 CFR 1505.2.

(ii) If the proposal *is not* specifically covered in the EIS for the RMP, but the cumulative impacts are adequately covered in the RMP, the analysis proceeds to insure that specificity and currency of the analysis for the RMP are adequate. Public input must be sought.

If the analysis and public involvement do not demonstrate that (1) public controversy exists; (2) the existing environment has changed (beyond the range expected in the EIS for the RMP when trends are taken into account); and (3) local, regional, and national needs have changed (beyond what was expected in the EIS for the RMP), the analysis may be documented as an EA. If the above three circumstances do not arise, the range of alternatives may be limited to those consistent with the RMP unless the analysis reveals new information which was not taken into account in the analysis for the RMP.

If any of the above three circumstances arise, the analysis should proceed as an EIS. In this case the range of alternatives may go beyond those that are consistent with the RMP, recognizing that if such an alternative is approved it requires an RMP amendment or a revised RMP.

C. *Partial Location, Timing, or System Alternatives*

These are handled in the same way as *B. Alternative Uses of Available Resources.*

D. *Mitigation Measures*

These are handled in the same general way as B. Alternative Uses of Available Resources. In many cases specific mitigation measures cannot be addressed until a site-specific analysis is conducted.

1. RMP's, RMP amendments, and upper tiers of environmental analysis: Mitigation alternatives for these categories are usually in the form of standard stipulations for certain actions and areas or actions to be given special consideration.

2. Site-specific actions involving signficant impacts: The analysis team must explore measures which would reduce or eliminate the significant imnpact. If such impacts are eliminated during the course of the analysis, the need for documentation is reduced to an EA.

Agency's Preferred Alternative—Environmentally Preferable Alternative

The CEQ's NEPA regulations [40 CFR 1502.24(2)] require the agency to identify its preferred alternative in the draft EIS (if one exists). They require the preferred alternative to be identified in the final EIS unless another law prohibits it.

The broad scope of the definition of "human environment" in the CEQ's NEPA regulations (40 CFR 1508.14) and BLM's responsibilities under FLPMA for mutliple use resource management in the public interest interact in such a way that the environmentally preferable alternative become (by definition) the agency preferred alternative. This is true for alternatives involving significant impacts and those involving impacts that are not significant.

When proposals for BLM action fall outside the scope FLPMA (actions pursuant to the Outer Continential Shelf Lands Act), objectives to be attained by the "environmentally preferred alternative" shall be derived from NEPA's goals. This is consistent with Section 4 of the Outer Continental Shelf land Act and conforms with 40 CFR 1500.1 which specifies that NEPA "is our basic national charter for protection of the environment."

Whether an action falls within or outside the scope of FLMPA, thresholds for significance and priorities developed in the analysis process and public comment and response are used to help determine the environmentally preferable alternative.

Applicants for BLM action and those who would benefit from the proposed action become affected interests. The impacts of not fulfilling their identified purpose and need are assessed in the law "no action" alternative. In the environmental analysis, goals of systems at many levels may appropriately be taken into account. On occasion, the "system" impacted (beneficially or adversely) may be an individual or group or an organization. Tiered environmental analyses allow for appropriate consideration of impacts on various involved system levels Illustration A–3. In each instance of environmental analysis BLM must maintain the perspective of its Federal stewardship role in identifying public benefit of a particular action.

The NEPA process is generated by a need for Federal agency action for public purposes, though the original proposal may have come from the private sector or another government entity. Ultimately, the implication for goals preferable to the society—the nation as a whole—must be yardstick by which environmental impacts are measured pursuant to NEPA.

Objectives constitute planned results to be achieved, often within a stated time period. They are derived from, and subordinate to, goals. They should be chosen so that they are quantifiable and attainable and so that their attainment is measurable.

Specifying objectives as described above requires establishing thresholds for attainment of those objectives. when objectives are specified in terms of thresholds, they can be linked directly to, and become part of, the thresholds for significant established byprocedures described in Appendix B.

The NEPA, FLMPA, OCSLA, and other normative goals, when prioritized according to their functional, normative, and preference values in the scoping process, become the basis for establishing environmentally preferable *objectives* for any given proposal. These objectives, in turn, form the basis for identifying significant impacts and for evaluating each alternative in terms of what is environmentally preferable at a particular time and place. Such objectives, specified as thresholds, constitute targets for developing mitigation measures, new alternatives, and monitoring programs. They also aid the decisionmaker in prioritizing his decision criteria and in reaching a decision objectively.

Appendix D (1791).—Checklists for Environmental Analysis

The BLM, as a mission-oriented agency, has many land management responsibilities that are carried out essentially the same way, regardless of location. Specific details of how a land management action is carried out may

differ from place to place, but the basic action is the same.

For example, allocating grazing levels is a basic action of range management. Numercial allocations will differ, depending on range condition, soil types, climate, etc.

Environmental analysis requires knowledge, first, of what man intends to do, and then, of what the unintended effects of those activities will be. Man's intended and unintended impacts interface through primary change agents.

Experience with a particular type of action permits us to develop checklists of all subactions, activities, subactivities, and primary change agents associated with that action. Experience should also improve our ability to estimate environmental impacts resulting from any action.

This appendix suggests ways to develop checklists useful for identifying primary change agents and systematically analyzing environmental impacts. The ideas here can be used for all levels of analysis, from small, simple activities routinely covered by environmental assessments (EA), to large complex actions that require major environmental impact statements (EIS). Adapt these suggestions to each situation.

1. *Proposed Actions and Alternatives*

A *proposed action* is an action designed to achieve a purpose; it usually involves the use of one or more resources. *Alternatives* to that action are designed to achieve the same basic purpose using alternative means. Some alternatives are generally included in an initial proposal. Others can be developed during analysis as the discovery of unforeseen impacts requires modification of the proposal.

Because alternatives must be analyzed as completely as the proposed action, "alternatives," when used alone, includes the proposed action.

2. *Subdivisions of Alternatives*

2.1 *Implementation Stages.* Depending on size and complexity of a proposal, alternatives can be subdivided. For a large proposal, an alternative may include several *implementation stages.* These are phases of an action that may occur sequentially or concurrently, but which are basically separate from each other. Illustration 1 lists implementation stages of surface mining and oil shale development.

The concept of implementation stages is useful for aggregating a number of actions that usually require individual analyses and that normally result in individual EA's. By aggregating, each separate action can be thought of as an implementation stage, and all actions can then be analyzed concurrently for a single EA or EIS, depending on significance of impacts.

2.2 *Subactions.* Each alternative and/or implementation stage can be divided into several *subactions.* A subaction is just another level in the organizational hierarchy of a complex action. Illustration 2 lists subactions associated with different implementation stages of oil shale development.

2.3 *Activities and Subactivities.* An *activity* (or, where complexity requires it, a *subactivity*) is yet another subdivision of an alternative. Activities are smaller than subactions, and they can be further subdivided into subactivities, if necessary. Illustration 3 shows a five-level hierarchy of implementation stages, subactions, activities, and subactivities associated with the action of surface mine development. Illustration 4 is a comprehensive list of activities common to surface mine development.

2.4 *Primary Change Agents.* Discrete activities (or subactivities) generate *primary change agents.* A change agent is the cause of one or more environmental impacts. A primary change agent results directly from man's activities and produces direct impacts. Higher-order change agents produce indirect impacts (Appendix B).

A change agent can be a material, substance, energy form, object, or activity capable of producing an impact. Illustration 5 contains a list of primary change agents associated with oil shale development.

3. *Developing Checklists for Environmental Analysis*

Checklists have both advantages and disadvantages. Among advantages is the fact that once a checklist has been developed, it provides users a quick, thorough review of things to consider. A disadvantage is that users who place too great a reliance on checklists can miss important factors when an action is not "typical."

The purpose of environmental analysis checklists is to identify all primary change agents resulting from alternatives. The hierarchical approach described in Section 2 provides a systematic approach to identifying change agents.

If checklists are to be developed in a district or area office, they should be done "on the job," i.e., during an actual analysis by an interdisciplinary team. Where necessary, checklists should be revised and updated promptly as soon as deficiencies are discovered.

3.1 *Initial Lists.* To develop a checklist, begin at the highest level of the hierarchy. For a complicated analysis, start with implementation stages. Write each implementation stage on a separate sheet of paper. Then list on the appropriate sheet all the subactions involved in that stage.

If there is room on the same sheet of paper, use a branching diagram to list activities and subactivities, as in Illustration 3. Another way is to list subactions, activities, and subactivities by BLM program on separate sheets of paper (Illustration 6).

When generating checklists, it is sometimes possible to continue through subactivities into primary change agents and direct impacts (Illustration 6).

3.2 *Branching Diagrams.* Illustration 3 provides one example of a branching diagram. Another type that links subactivities and their change agents with general impacts is presented in Illustration 7.

3.3 *Matrices.* Often subactions share many of the same activities which, in turn, share similar subactivities. Similarly, several subactivities may generate the same type of change agent. This situation can be handled very concisely through a series of matrices.

Illustrations 8 and 9 show how this is done. The list of subactions in Illustration 2 is written across the top of the matrix in Illustration 8 to identify the columns. Activities that produce change agents are listed down the left side to identify the rows. An *X* is placed at each row/column intersection in which an activity is associated with a subaction.

On the next matrix, Illustration 9, activities from the left-hand side of Illustration 8 are new listed across the top. Change agents down the left side of Illustration 9 are from Illustration 5. Change agents are related to the activities by a "bullet" in the row/column intersection.

4. *Socioeconomic Applications.*

The above methods can be applied as narrowly (e.g., within a single resource) or as broadly as desired. An example checklist of broad socioeconomic factors as they relate to resource development is presented in Illustration 10. Instructions for using these socioeconomic checklists are found in "Draft Guidance for Socioeconomic Inputs to Grazing Environmental Impact Statements (EIS's)." [Issue in draft, for comment, by Instruction Memorandum 80-216.]

Illustration D–1.—Implementation Stages of Two Kinds of Energy Development

Surface Mining

1. Exploration
2. Mine development
3. Mine production (ancillary activities)
4. Mine production (extraction activities)
5. Reclamation

Oil Shale Development

1. Site preparation
2. Preproduction mining
3. Ancillary facilities
4. Commercial facilities
5. Operation

Illustration D–2

Major Oil Shale Development Subactions

1. Build/extend roads
2. Build impoundments
3. Sink shafts
4. Mine (development/retort construction)
5. Construct underground facilities
6. Construct surface facilities
7. Process raw materials/operate
8. Build power transmission lines
9. Build staging area (off-tract)
10. Build pipelines (off-tract)
11. Build commercial facilities

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Illustration D-3

A partial hierarchical list of action, implementation stages, subactions, and activities associated with surface-mine development. Note that many activities occur more than once within the five levels.

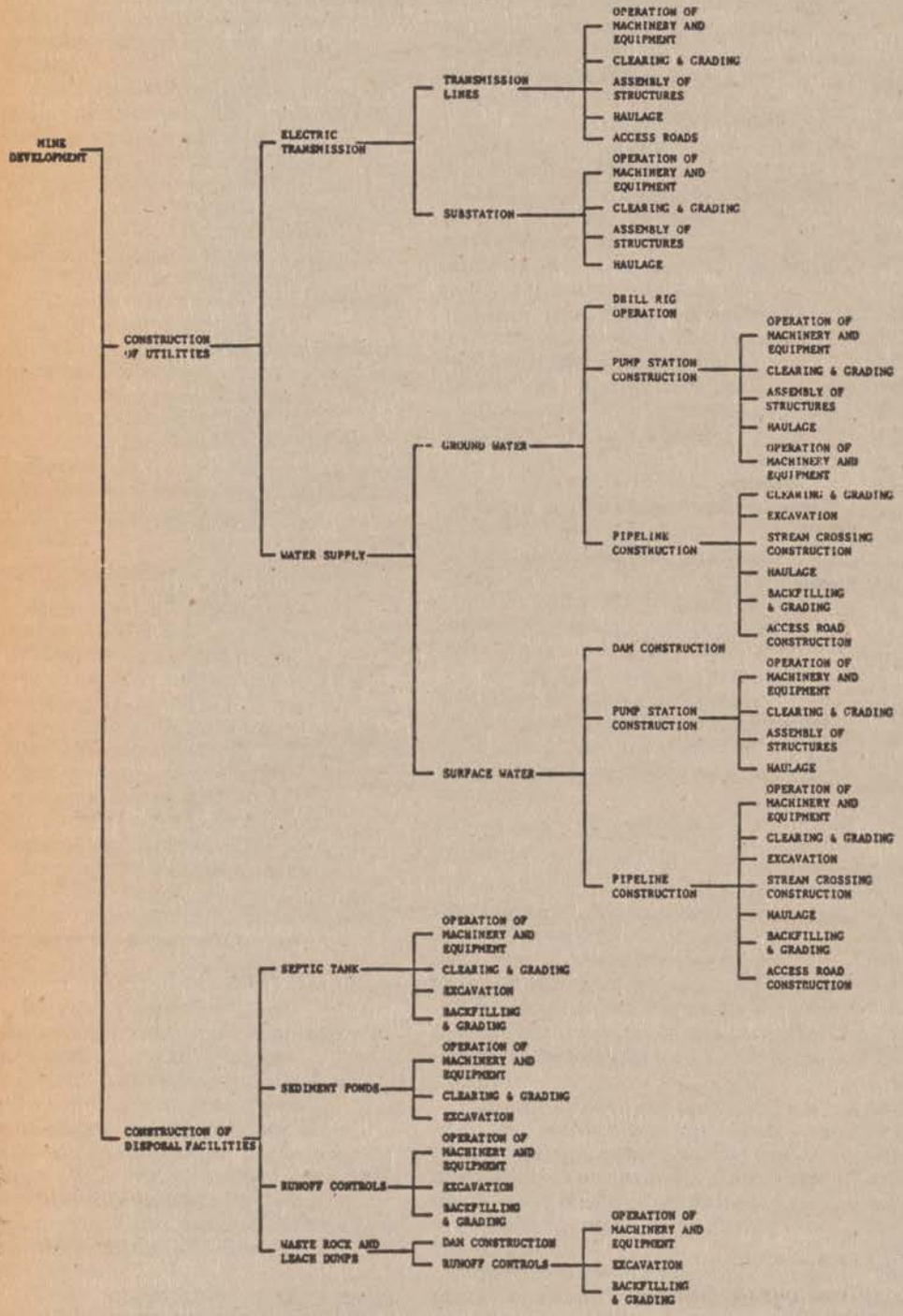

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Illustration D–4

List of Activities Associated With Surface Mine Development

1. Survey land surface
2. Operate drill rigs
3. Remove surface features
4. Store topsoil materials
5. Dewater
6. Blast
7. Remove overburden
8. Dispose of overburden
9. Extract minerals
10. Replace topsoil and revegetate
11. Irrigate
12. Operate machinery and equipment
13. Clear and grade
14. Excavate
15. Backfill and grade
16. Construct stream crossings
17. Construct dams
18. Assemble structures
19. Cut and fill
20. Haul.
21. Prepare surfaces and roadbeds
22. Store minerals
23. Crush minerals
24. Load minerals
25. Operate railroads
26. Operate access roads
27. Operate haul roads
28. Store fuel and chemicals
29. Operate maintenance yards and parking lots
30. Operate electric transmissions
31. Operate water supply
32. Operate sewage treatment plants
33. Operate septic tanks
34. Operate runoff controls
35. Operate waste rock and leach dumps
36. Operate sediment and leach ponds

Illustration D–5

Primary change agents associated with oil shale development in western Colorado. Note how categories are used to group change agents.

Meteorological

Create fugitive dust
Create odors
Create noise and vibration
Emit steam
Create water vapor
Create icing
Create fog
Emit particulates and aerosols
Emit SO_2
Emit H_2S
Emit NO
Emit NO_2
Emit NO_x
Emit CO
Emit CH_4
Emit NMHC (non methane hydrocarbons)
Emit THC (total hydrocarbons)
Emit ozone and other oxidants
Emit arsenic
Emit mercury
Emit selenium

Topographic

Create landslides
Alter contour of land
Alter surface drainage patterns

Edaphic

Create compaction
Create erosion
Remove all vegetation
Alter humus content
Mix soil profile

Geologic

Cause ground to subside
Expose shrink/swell clays

Biological

Disturb vegetation
Increase road kills
Disturb soil microorganisms

Hydrological

Alter surface runoff
Alter peak flows (flash flooding)
Aler sedimentation
Alter evaporation
Alter seepage
Alter water table levels
Alter downstream flows
Alter stream channels
Alter groundwater chemical composition
Alter groundwater flows

Illustration D–6.—Environmental Analysis Checklists

1. Subactions and activities of BLM "Activity Programs" that generate proposed actions.
2. Change agents.
3. Potential impacts associated with change agents.

Checklist 1.—Subactions and Activities by Program

A. Lands and Realty

Granting of Rights-of-Way

Powerline
Pipeline
Telephone line
Communication site
Highway
County road
Access road
Trail
Railroad
Canal or ditch
Fences

Withdrawals

Obtaining Rights-of-Way and Easements

Access Roads
Water development and use
Fences

Leases

Dump site or land fill
Recreation area
Sewage plant
Dam site
Building site

Transfers of Title

Sale
Exchange Acquisition

Temporary Use Permits

ORV events
Group meetings, rock
Concerts, group
Camping, etc.
Movie locations
Others

B. Minerals

Sales

Gravel and sand
Common borrow
Building stone

Permits

Exploration
Drilling Seismic

Leases

Coal
Oil and gas
Oil shale
Bentonite
Sodium and potassium
Phosphate

C. Forest Products

Timber Sales

Clear cutting
Partial cutting
Thinning
Salvage

Stand and Site Improvement

Pre-commercial thinning
Slash disposal and snag
Falling
Brush control
Tree planting
Insect control
Disease control
Animal control

Sales of Other Forest Products

Ferns
Cacti
Christmas trees
Cones
Pinyon nuts

D. Range Management

Grazing Use Allocation
Wild Horse Use Allocation
Grazing Authorization—Plan or System Implementation
Range Improvement
Pest and Predator Control

E. Recreation Management

Visual Resource Protection and Improvment

Recreation Management

Fishing
Hunting
Winter sports
Water sports
Collecting
Sightseeing
Specialized events-ORV, etc.
Primitive Values

F. Watershed

Water Management

Protection and enhancement of water quality

Soils Management

Erosion prevention
Erosion reduction

Air Quality Management

Endangered Resource Protection

G. Wildlife Habitat Management

Terrestrail Habitat

Expansion
Improvement
Maintenance

Aquatic Habitat

Expansion
Improvement
Maintenance

Wetlands

Expansion
Improvement
Maintenance

Endangered Resource Protection

Expansion
Improvement
Maintenance

H. Firefighting and Rehabilitation

Fire Operations

I. Recreation Maintenance

Facility Maintenance

J. Transportation Maintenance

Road, Trail, and Bridge Maintenance

K. Building Maintenance

Checklist 2.—Change Agents

Trampling and crushing
Rutting and eroding
Clearing and grubbing
Brush beating and chaining
Controlled burning
Grazing and browsing
Scarifying
Piling
Tree felling
Log yarding—cable, full suspension
Log yarding—cable, end suspension
Log yarding—caterpillar traction
Log yarding—aerial
Log loading
Tree girdling
Ground spraying
Aerial spraying
Plowing and tilling
Drilling and seeding
Hand planting
Machine planting
Biologically introducing or excluding
Poisoning
Trapping and catching
Shooting or killing
Dumping and littering
Emitting Air pollutants
Flooding
Harvesting
Emitting water pollutants
Emitting soil pollutants
Using water
Consuming water
Pumping
Dredging and sluicing
Excavating
Filling, leveling, and terracing
Placing culverts and diversions
Drilling and blasting
Grading and paving
Hauling and transporting
Well drilling
Shaft digging
Concrete and asphalt mixing and laying
Fencing and barricading
Erecting towers and poles—Aerial
Erecting towers and poles—Ground
Erecting buildings and structures
Erecting dams and earthworks
Erecting docks, ramps, floats
Pipelaying
Line stringing
Processing, manufacturing, producing
Storing and stockpiling
Excluding
Vandalizing

Checklist 3.—Potential Impacts

Air

Creates dust
Creates odors
Emits particles
Emits chemicals

Water

Alters sedimentation rate
Alters stream channels
Alters downstream flow
Alters peak flows
Alters seepage rate
Reduces or increases quantities
Alters temperature
Alters groundwater recharge
Changes water table level
Changes water quality

Soils

Creates compaction
Alters erosion rate
Alters contour or land
Alters drainage pattern
Removes soil
Changes soil temperature
Changes fertility
Changes humus content
Changes permeability rate
Changes profile
Creates instability
Introduces chemicals
Introduces organisms

Vegetation

Removes, destroys, or damages vegetation
Changes community type
Changes species composition or diversity
Changes vegetative density
Changes vegetative vigor
Introduces an exotic
Alters water supply
Introduces disease
Introduces pests

Animals

Changes in species populations, age groups, sex ratios
Changes in species distribution
Changes in species diversity or composition
Changes in species vigor or reproduction
Changes in water supply
Changes in water quality
Changes in food supply
Changes in nesting, calfing, breeding or other special areas
Introduces exotics
Introduces disease
Introduces pests
Harasses
Physically harms or causes death
Restricts, excludes, or entraps

Human Values

Color
Texture
Harmony
Form
Light
Vibration
Sound
Frequency
Rhythm and periodicity
Economic
Infrastructure
Socio-cultural
Emotional

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Illustration D-7

Impacts of Operations of Waste Rock and Leach Dumps

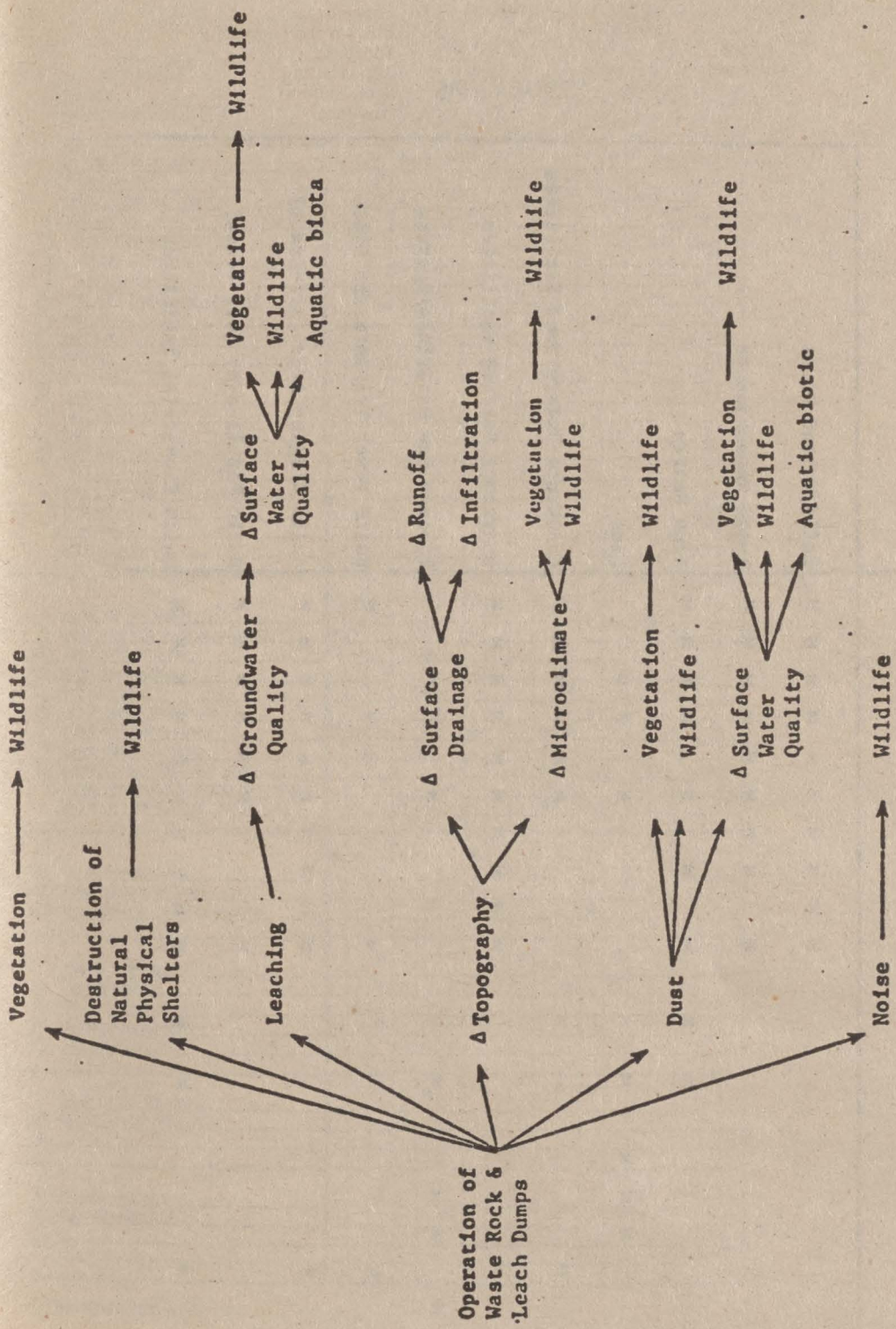

Illustration D-8

SUBACTIONS

ACTIVITIES THAT PRODUCE PRIMARY CHANGE AGENTS	Build/Extend Roads	Build Impoundments	Sink Shafts	Mine	Construct Underground Facilities	Construct Surface Facilities	Process Raw Materials/Operate	Build Power Transmission Lines	Build Staging Area (off-tract)	Build Pipeline(s) (off-tract)	Build Commercial Facilities
Remove Vegetation	x	x	x			x		x	x	x	x
Store Equipment/Vehicles	x	x	x		x	x			x	x	x
Operate Equipment	x	x	x	x	x	x	x	x	x	x	x
Drill & Blast	x	x	x	x	x	x	x	x	x	x	x
Grade (Excavate & Fill)	x	x			x	x		x	x	x	x
Dispose of Waste	x	x	x	x	x	x	x		x	x	x
Pave or Surface	x	x				x			x		x
Fence	x	x	x			x			x		x
Increase Traffic	x					x			x		x
Disturb Vegetation	x	x	x			x		x	x	x	x
Remove Underground Water (dewater)			x	x	x		x				x
Dispose of Water			x	x	x		x				x
Sink Shafts				x							
Build Conveyor				x							
Operate Conveyor				x			x				
Crush Mined Shale				x			x				
Erect Structures					x	x		x	x		x
Exhaust Retorting Gasses							x				

Illustration D-9

ACTIVITIES

PRIMARY CHANGE AGENTS

		DISTURB VEGETATION	REMOVE VEGETATION	OPERATE EQUIPMENT	DRILL AND BLAST	EXCAVATE AND FILL (GRADE)	DISPOSE OF SOLID WASTE	PAVE OR SURFACE	FENCE	INCREASE TRAFFIC	REMOVE UNDERGROUND WATER	DISPOSE OF PROCESS AND MINE (WATER)ING WATER	SINK SHAFTS	BUILD CONVEYOR	OPERATE CONVEYOR	CRUSH MINED SHALE	ERECT STRUCTURES (BUILDINGS)	EXHAUST RETORTING GASES
METEOROLOGICAL	CREATE FUGITIVE DUST	●	●	●	●	●	●	●	●			●	●	●	●			
	CREATE ODORS			●					●		●						●	
	CREATE NOISE AND VIBRATION			●	●		●		●				●	●	●	●		
	EMIT STEAM																●	
	CREATE WATER VAPOR																	
	CREATE ICING																●	
	CREATE FOG																●	
	EMIT PARTICULATES AND AEROSOLS				●				●						●		●	
	EMIT SO_2																●	
	EMIT H_2S																●	
	EMIT NO																●	
	EMIT NO_2																●	
	EMIT NO_x			●					●								●	
	EMIT CO			●					●								●	
	EMIT CH_4																●	
	EMIT NMHC (non-methane hydrocarbons)																●	
	EMIT THC (total hydrocarbons)			●					●								●	
	EMIT OZONE AND OTHER OXIDANTS																●	
	EMIT ARSENIC																●	
	EMIT MERCURY																●	
	EMIT SELENIUM																●	
HYDROLOGICAL	ALTER SURFACE RUNOFF	●	●		●		●			●						●		
	ALTER PEAK FLOWS (flash flooding)	●	●		●		●									●		
	ALTER SEDIMENTATION	●	●		●					●								
	ALTER EVAPORATION									●								
	ALTER SEEPAGE				●					●								
	ALTER WATER TABLE LEVELS				●					●	●	●						
	ALTER DOWNSTREAM FLOW	●	●		●		●			●	●					●		
	ALTER STREAM CHANNELS				●					●								
	ALTER SURFACE CHEMICAL COMPOSITION					●				●	●						●	
	ALTER GROUNDWATER CHEMICAL COMPOSITION					●				●	●							
	ALTER GROUNDWATER FLOW SYSTEMS				●	●				●		●						
TOPOGRAPHIC	CREATE LANDSLIDES	●	●		●	●		●				●						
	ALTER CONTOUR OF LAND					●		●										
	ALTER SURFACE DRAINAGE PATTERNS					●						●						
EDAPHIC	CREATE COMPACTION			●		●		●		●			●			●		
	CREATE EROSION	●	●	●		●	●					●		●		●		
	REMOVE ALL VEGETATION		■			●												
	ALTER HUMUS CONTENT	●	●	●		●	●											
	MIX SOIL PROFILE				●	●	●											
GEOLOGIC	CAUSE GROUND TO SUBSIDE				●	●						●						
	EXPOSE SHRINK/SWELL CLAYS				●	●												
BIOLOGICAL	DISTURB VEGETATION	■		●														
	INCREASE ROAD KILLS																	

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Illustration D–10

1. Socioeconomic Checklist

Detailed information about each component on this checklist can normally be found in SEPs or most regional analyses.
A. Resource production.*
B. Income.
C. Employment.
D. Population.
E. Infrastructure.
1. Public finances.
2. Public administration.
3. Retail and wholesale trade.
4. Finance, insurance, and real estate.
5. Housing.
6. Education.
7. Health care.
8. Mental health.
9. Social services.
10. Sewer and water systems.
11. Public utilities.
12. Transportation and communications.
13. Police and fire protection.
F. Lifestyles.
G. Attitudes and expectations.

2. Resources Checklist

Listed below are resources that should be analyzed in future grazing EISs. Early in the EIS process, the resource specialists must provide the social scientist with resource production estimates, both current and projected. In many cases, it will expand the workload of the specialists; therefore, ample time must be programmed to generate estimates. Frequently, the social scientist will be required to assist in developing these data.
A. Forest industry.
B. Agriculture.
C. Minerals.
D. Recreation.
E. Water, soil, and air.
F. Wilderness.
G. Wild horses and burros.
H. Wildlife.

3. Levels of Systems

Socioeconomic impacts affect different elements (groups or levels) within a given social environment. These separate elements can be related to levels of systems in much the same manner as plants within biological systems (i.e., cell, organism, plant species, plant communities, ecosystems, etc.). The levels of systems most likely to be of concern to the social sciences in grazing EISs include the following:

A. *Individuals.* This system level includes individual persons (e.g., ranchers) or individual operations or businesses.

B. *Groups.* These include *informal* associations of social groups (ranchers, environmentalists, poor, senior citizens, etc.) or functional groups (livestock industry, agribusiness, local eating establishments, etc.).

C. *Organizations. Nongeographic:* this level covers formal, chartered clubs, societies, rancher or business associations, and other interest groups.

Geographic: these include towns, cities, counties, substate regions, states, and multistate regions.

D. *National.* Impacts that affect the entire United States fall into this level. Many attitudinal values (wildlife, open space, wilderness, etc.) frequently have national significance.

E. *International.* Impacts that transcend the national borders come under this level. For example, sedimentation or salinity levels in rivers (e.g., Colorado River) that flow out of the U.S. can be affected by soil erosion factors in certain grazing areas administered by BLM.

The use of these different system levels allows the social scientist to look out from within the EIS study area and identify the full range and scope of impacts caused by BLM grazing actions.

*Outputs from resources identified in Resources Checklist.

[FR Doc. 80–8009 Filed 3–18–80; 8:45 am]
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federal register

Wednesday
March 19, 1980

Part III

Council on Environmental Quality

National Oil and Hazardous Substances Pollution Contingency Plan; Final Revision

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1510

National Oil and Hazardous Substances Pollution Contingency Plan; Final Revision

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final Revision of National Contingency Plan.

SUMMARY: These final revisions to the National Oil and Hazardous Substances Pollution Contingency Plan update the Plan to conform to the Clean Water Act amendments of 1977 and restructure the Plan to eliminate duplication and simplify reading. Substantive changes include: (1) Increasing State participation in the Plan, (2) provision for the preparation of local contingency plans, (3) incorporation of the National Pollution Equipment Inventory System, (4) provision for Scientific Support Coordinators, (5) provision for periodic field testing, and (6) clarification of the application of the Endangered Species Act. These changes are designed to improve the efficiency, coordination and effectiveness with which Federal agencies respond to discharges or substantial threats of discharges of oil and hazardous substances.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Foster Knight, Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006, (202) 395–5750, or Richard Hess, EPA-Coast Guard Liaison, Headquarters, U.S. Coast Guard, G–WEP/73, Washington, D.C. 20590 (202) 426–9571.

SUPPLEMENTARY INFORMATION:

A. Purpose

We are publishing final revisions to the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 1510 (as amended March 26, 1976). The Plan is the basis for Federal action to minimize pollution damage from discharges of oil or hazardous substances. The purpose of these revisions is to update the Plan and improve the efficiency, coordination, and effectiveness with which Federal agencies respond to a discharge or substantial threat of discharge of oil or a hazardous substance. We expect the revised regulations to improve planning by and coordination among State and Federal agencies, to improve assessment of environmental damage from spills and to facilitate evaluation of response effectiveness.

B. Summary of Changes Made by the Final Revisions.

1. *Changes to make the Plan track with the Clean Water Act amendments of 1977.*—See particularly §§ 1510.3, 1510.21. Following the Clean Water Act amendments of 1977, the regulations modify the scope of the Plan (§ 1510.3) to include the expanded economic zone of the Fishery Conservation and Management Act of 1976. The revisions apply the Plan to potential as well as actual discharges (§ 1510.21(b)).

2. *Increasing the role of state participation in the Plan.*—(a) States are invited to participate as full members of Regional Response Teams (RRTs). Full participation of high level state representation is desired. See § 1510.23(a) and § 1510.34 (a) and (f).

(b) Section 1510.23(b). EPA and the U.S. Coast Guard should explore the possibility of entering into agreements with states which will delegate to the state spill cleanup responsibilities.

(c) Section 1510.34 (m), (n) and (o). Provisions for RRT members (including state members) to appeal decisions of the RRT to the National Response Team (NRT) and to request further review by CEQ.

3. *Local Contingency Plans.*—The revised Plan makes provision for local contingency plans for dealing with spills in ports or local areas.

Sections 1510.36(d) and 1510.42 provide that the On-Scene Coordinator (OSC) is responsible for developing and maintaining a local contingency plan for the OSC's area of responsibility. Local plans must identify: (1) Environmentally sensitive areas, (2) most probable locations for pollution incidents, (3) the kinds of resources that would be needed to respond to spill incidents, (4) where such resources can be obtained, (5) plans of action for protecting vulnerable resources, (6) sites for disposing recovered oil and hazardous substances, and (7) a local organizational structure for spill response.

To aid the development of local contingency plans, § 1510.34(d) provides that RRTs must designate members to assist the OSC in local contingency planning.

4. *National Pollution Equipment Inventory System.*—The revised Plan in § 1510.43 incorporates a national inventory of equipment and resources available for oil and hazardous substance spill response.

5. *Scientific Support Coordinators.*—The revised Plan provides a mechanism for coordination between the On-Scene Coordinator (OSC) and the scientific community during spills. Such a mechanism is necessary in order to provide the OSC with sound scientific advice in an orderly way, so that the OSC does not have to devote scarce time to a number of different scientists who are concerned about providing cleanup advice and conducting experiments during spill cleanup operations.

Section 1510.64(c) establishes a scientific support organization headed by Scientific Support Coordinators (SSCs) who are designated by EPA for inland spills and by NOAA for coastal area spills.

6. *Annual Field Exercises.*—The revised Plan makes provision for periodic field testing by the RRTs of their spill response equipment and people.

Section 1510.34(h) requires each coastal RRT to conduct annual training exercises in which equipment is actually deployed.

Section 1510.34(i) strongly encourages each inland RRT to conduct annual training exercises.

7. *Changes Reflecting Requirements of the Endangered Species Act.*—The revised Plan specifically discusses the relationship between spill response and cleanup actions and the requirements of legislation protecting endangered or threatened species.

Section 1510.36(a)(3) provides that advice to the OSC provided by DOI through the Fish and Wildlife Service or by Commerce through the National Marine Fisheries Service on the cleanup of spills that affect endangered species, shall be binding on the OSC (with specified exceptions).

8. *Public Information.*—The previous Plan provided for dissemination of public information in Annex VI.

The revised Plan moves the provisions of Annex VI to new § 1510.37. In addition, changes are made to make the Plan conform to the existing public information network.

9. *Restructuring Plan for Easier Reading.*—The previous Plan contained considerable useful information buried in its Annexes.

The revised Plan shifts this more important material into the body of the Plan. The revisions also add new Annex material (new Annexes II, VI and VIII). See attached comparison of Previous Plan and Revised Plan.

In addition, the revisions eliminate duplicative material and rewrite some provisions to achieve clarity and to make minor corrections of outdated Plan information.

Previous Plan	Revised Plan
Annex I (Distribution)	Remains the same.
Annex II (N.R.T. functions)	NRT functions are in § 1510.32.* (Annex II—Formats For Regional and Local Contingency Plans.)
Annex III (National Response Center functions).	NRC functions are in § 1510.33. (Annex III—Regions and Office Locations of Agencies.)
Annex IV (Office Locations of Primary Agencies).	Office locations are in Annex III. (Annex IV—Legal Authorities.)
Annex V (Communication and Reports).	Reports are in § 1510.56.* (Annex V—Communication Services Available.)
Annex VI (Public Information)	Public Information is in § 1510.37.* (Annex VI—Sample Collection Procedures to be followed by OSCs.)
Annex VII (Legal Authorities)	Legal Authorities are in Annex IV. (Annex VII—Technical Library.)
Annex VIII (Documentation and Cost Recovery).	Documentation and Cost Recovery are in § 1510.55. (Annex VIII—Definition of Technical Terms.)
Annex IX (Funding)	Funding is in § 1510.65. Annex IX (blank).
Annex X (Schedule of Chemicals and Additives For Removal of Oil and Hazardous Substances).	Remains the same.
Annex XI (Non-Federal Interests).	Non-Federal Interests are in § 1510.23.
Annex XII (blank)	
Annex XIII (blank)	
Annex XIV (blank)	
Annex XV (Technical Library and Definitions of Technical Terms).	Technical Library is in Annex VII; Definition of Technical Terms is in Annex VIII.

*Denotes new annex material.

C. Background

The Plan was first published as an interagency agreement in 1968. It became part of the Code of Federal Regulations in 1970 in accordance with the Water Quality Improvement Act of 1970. Section 311(c)(2) of the Clean Water Act gives the President the responsibility for issuing the Plan. By Executive Order 11735 (August, 1973), this responsibility was delegated to the Council on Environmental Quality (CEQ). In 1973 the Plan was published in its current format. The version that is being revised by these final regulations was publish in 1975 with some minor changes incorporated in 1976.

A number of events over the past two years have identified opportunities for improving the Plan. In late December 1976, the *Argo Merchant* ran aground on Nantucket Shoals, 27 miles from Nantucket Island, Massachusetts. The resulting spill of 7.5 million gallons of oil led to a massive spill response action under the National Contingency Plan. Although the weather conditions exceeded technological capabilities for recovery of the oil, those same conditions meant that no oil reached the Massachusetts shoreline. In April 1978, Massachusetts submitted a Petition for Rulemaking to revise the Plan, asking for specific changes. In addition, a spill of 250,000 gallons earlier in the year resulted in massive shoreline damage on the Chesapeake Bay as 27 miles of coastline were contaminated by the oil.

On June 3, 1979 the worst oil spill in history began with the blow-out of IXTOC No. 1, a well being drilled in the Bay of Campeche by PEMEX, Mexico's national oil company. Estimates of the oil spilled ranged from 10,000 to 30,000 barrels per day. Efforts to plug the well were unsuccessful and drilling of two relief wells began. By late July, 1979 cleanup efforts were only partially successful at best despite the efforts of Mexican authorities, the U.S. Coast Guard's Open Water Containment Recovery System and cleanup firms from around the world. Towards the end of the summer of 1979 huge oil slicks moved north and threatened the Texas coast. The U.S. Coast Guard and Texas authorities prepared to try to protect the highly productive estuaries behind the string of barrier islands on the south Texas coast and to mitigate damage to beaches and the tourist industry. Oil from the spill ultimately reached the south Texas coastline affecting a large geographical area and a multitude of local and regional interests. Response efforts however were moderately successful in mitigating damage.

As a result of such incidents and continuing United States dependency on oil imported by tanker, attention from various levels of government has been continually focused on the response capabilities of the federal government.

Congressional subcommittees have investigated both the response to specific incidents and the general federal scheme for coordinated action. In response to these events and as part of its responsibility to recommend changes, proposed revisions have been submitted to CEQ by the national Response Team, the national group of federal agencies responsible for planning and coordination under this Plan.

Some problems were also addressed in the Clean Water Act amendments of 1977 (Pub. L. No. 95–217 amending 33 U.S.C. 1251 *et seq.*) which changed the jurisdiction of the Plan. The revision of the Plan reflects these statutory changes.

The revised Plan also addresses other problems noted in the course of response actions. In October 1977, CEQ requested information from the States on problems they had encountered in activities under the Plan. Twenty-seven states responded, generally expressing satisfaction with the Plan but offering suggestions for improvements.

The Council published proposed revisions to the National Contingency Plan on May 14, 1979 (44 FR 28196) with 60 days for public review and comment. This comment period was extended upon request until September 1, 1979. The Council received comments from the oil industry, independent waterways operators, state, regional, and local governments and miscellaneous interested parties, totalling 29 written comments. In addition the regional offices of the principal federal agencies provided a number of technical comments.

The Council's staff read and analyzed each of the comments received and developed recommendations were then presented to the National Response Team for further evaluation and recommendations. Finally comments raising significant issues together with staff and National Response Team recommendations for appropriate changes were presented to the Council for resolution.

When, after discussions and review the Council determined that the comments raised valid concerns, the Plan regulations were modified to reflect those concerns. When the Council determined that reasons supporting the Plan provisions were stronger than those for changing them, the Plan provisions were left unchanged. Part D of the Preamble describes the more significant comments received and how the Council responded to them.

D. Comments and the Council's Response

Comments on Section 1510.5—Definitions

One comment objected to the definition of "oil" in § 1510.5, to the extent it includes oil in combination with other substances, as being too vague and imprecise. The Council however determined not to change the definition as it repeats verbatim the definition of "oil" in § 311(a)(1) of the Clean Water Act.

Several comments were critical of § 1510.5(r)(1)'s definition of a minor discharge of a hazardous substance as "a quantity less than that defined as reportable by regulation (40 CFR Part 117)." The comments expressed concern that this definition was inconsistent with EPA's hazardous spills regulations where the enumerated substances are considered hazardous if a quantity equal to or greater than the "reportable quantity" is spilled. The purpose of the Plan is to provide for removal of oil and hazardous substances even in cases where no liability attaches to the discharger. There are many instances where the quantity of hazardous substances spilled cannot be accurately

determined. A definition of minor discharge which excludes less than reportable quantities will discourage efforts to remove such spills. For these reasons, the Council determined not to change the definition of minor discharge of hazardous substances.

The comments also recommended establishing a practical lower limit in the definition of a minor oil spill such as California's 10 gallon limit. The Council determined however that the existing definition in § 1510.5(r)(1), "less than 1000 gallons", is working well and should not be changed.

Comments on Section 1510.21—Federal Responsibility

Some comments pointed out that the proposed language for § 1510.21(a) did not adequately reflect § 311(c)(1) of the Clean Water Act by omitting the modifier "substantial" before "threat." Section 311(c)(1) specifies Federal response actions where there are discharges or a "substantial threat" of such discharge. The Council agrees with these comments. Since this problem was presented in other parts of the proposed revisions, the Council is correcting it by changing the definition of "potential discharge," in § 1510.5(n), to mean "any accident or other circumstance which constitutes a substantial threat of a discharge of oil or hazardous substance." Thus, subject to § 311(c)(1), Federal responsibility exists for discharges and potential discharges. These changes address these same comments with respect to §§ 1510.21(b), 1510.53(a), and 1510.63(b).

Comments on Section 1510.36(b)—On-Scene Coordinator

A number of companies and organizations involved in the carriage of bulk petroleum and chemicals in inland waters requested that § 1510.36(b) be changed to provide that the U.S. Coast Guard (rather than the Environmental Protection Agency) furnish or provide the On-Scene Coordinator for all navigable waters of the United States which are used by waterborne commerce. The principal reasons given in support of this change are: (1) that the Coast Guard is already required to be involved in inland waterway discharges in order to evaluate compliance with pollution prevention regulations and to evaluate penalty assessments, and (2) that it would be an unnecessary duplication of federal agency resources to have the EPA act as On-Scene Coordinator for inland waterway spills. Furthermore EPA's capability to act quickly as the On-Scene Coordinator was questioned by some commenters.

The National Response Team which has overall operational and implementing responsibility for the National Contingency Plan recommended that § 1510.36(b) not be changed because in certain inland waterway regions EPA provides the most effective On-Scene Coordinator, while in others (where the Coast Guard is the most effective), EPA normally predesignates the Coast Guard to serve as the inland waterway OCS. The National Response Team therefore recommended that the existing flexibility in allowing both the EPA and the Coast Guard to be On-Scene Coordinators for inland waterways (depending on the circumstances) is preferable to a fixed rule assigning only the Coast Guard to that function. Based on the National Response Team's experience and recommendations, the Council therefore determined to leave § 1510.36(b) unchanged.

Some commenters expressed concern that the proposed revisions to the Plan (particularly § 1510.36(a)(3) with respect to compliance with the Endangered Species Act and with respect to the use of chemical dispersants governed by Annex X) diminished the On-Scene Coordinator's authority and effectiveness to respond quickly to a spill. These commenters requested that § 1510.36(a)(3) and Annex X be changed to eliminate restrictions on the OSC's authority.

Section 1510.36(a)(3) provides that advice to the On-Scene Coordinator provided by the Fish and Wildlife Service (Department of the Interior) or by the National Marine Fisheries Service (Department of Commerce) on cleanup actions that may affect endangered species shall be considered at all times and be binding on the On-Scene Coordinator unless in the OSC's judgment contrary actions must be taken to protect human life. The Council does not regard this provision as a new limitation on the OSC's authority to act but rather as an incorporation of the requirements of the Endangered Species Act which, since 1973, has applied to all activities of federal agencies and responsible federal officials. In essence, this provision is designed to assist the OSC to comply with the Endangered Species Act, through the expertise of the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), in circumstances where cleanup actions may affect endangered species. Whenever the OSC determines that certain actions must be taken to protect human life, the OSC's judgment will prevail over FWS or NMFS advice to the contrary. For these reasons the Council determined to leave this part of § 1510.36(a)(3) unchanged. Annex X is modified to include a cross-reference to § 1510.36(a)(3). These changes do not affect the OSC's authority to use chemical dispersants such as to substantially reduce explosion or fire hazards to property where there is no threat to endangered species.

With respect to the use of chemical dispersants covered by Annex X, several commenters recommended that the On-Scene Coordinator be provided with authority to allow the spiller or his agents to use *registered chemical dispersants* in *offshore areas* for protection of sensitive environmental or commercial fishery areas without the concurrence of the EPA representative on the Regional Response Team. The National Response Team carefully considered this request but concluded that the continuing involvement of EPA representatives before use of chemical dispersants outweighs any benefits to be derived by allowing the spiller to use dispersants in such areas without advance EPA concurrence. The Council adopted the National Response Team's recommendation with respect to this issue. However, it is the intent of the Plan that the EPA Regional Response Team member continue to work closely with the Coast Guard On-Scene Coordinators to provide greater guidance—in advance of spills—on the circumstances that justify use of chemical dispersants.

Several commenters felt that the priorities of the Plan were insufficiently spelled out and recommended that the primary goals of a spill response be (1) to protect human life and limb and (2) to minimize ecological impacts of spills. The National Response Team believes that these priorities are inherent in the Plan and are already covered in § 1510.36(a)(3) and Annex X. The Council agrees with the NRT and that On-Scene Coordinators have adequate explicit guidance on these priorities.

One comment recommended that § 1510.36(a)(1) be clarified to provide that the first official from an agency with responsibility under the Plan to arrive at the scene of a discharge is to function as acting OSC (if other than the predesignated OSC) until the OSC arrives. The NRT determined that § 1510.36(a)(1) already is sufficiently clear on this point by providing that the first official to arrive on scene "shall coordinate activities under the plan until the OSC arrives." "Shall coordinate activities" includes authority to act as OSC.

Comments on Section 1510.37—Public Information Network

Several comments expressed concern that proposed § 1510.37(b) establishes a regional news office as the "single source of official information on the incident", to the detriment of the public interest in obtaining information from public agencies and private interests. Section 1510.37 has been substantially rewritten, and eliminates the regional news office as the single source of official federal information. As rewritten § 1510.37 provides for coordination of news releases through the OSC, through an on-scene news office or a national news office. Participating federal agencies are given a larger role in the public information network. At the same time, information from private interests on a pollution incident remains unaffected by § 1510.37 or any other provision in the Plan, because the Plan cannot regulate the manner or content of information on a pollution incident provided by private interests. To provide for greater coordination with local government a new sentence is added to § 1510.37(a)(1): [When a major pollution incident occurs] "Those immediately capable, especially local fire, police and government officials, will be contacted first so that they may use all available resources to notify the public of a potential threat."

Comments on Section 1510.42—Local Contingency Plans

One comment recommended that local contingency plans also include development of methods for protecting environmentally sensitive areas. This is addressed in § 1510.42(a) (plans of action for protecting vulnerable resources).

Comments on Section 1510.43—National Inventory System

One comment suggested that standard indemnification agreements be entered into between the Federal government and private parties whose cleanup equipment is listed in the inventory such that owners will be indemnified for any damage that may occur when the equipment is used at the direction of the On-Scene Coordinator. The NRT recommended that indemnification for damaged private equipment need not be addressed in the Plan because private equipment used by the OSC is obtained through rental or other contractual agreements which contain adequate indemnification provisions. The Council therefore deferred to the expertise of the NRT on this issue.

Comments on Section 1510.63—General Pattern of Response Actions

One comment objected to the sentence in § 1510.63(a)(3)(i) which provides "The discharger's removal efforts are 'improper' to the extent that Federal efforts are necessary to prevent further damage." The comment expressed concern that this language prevents or discourages a discharger from seeking Federal removal assistance where Federal assistance would speed the discharger's otherwise "proper" removal actions. The comment misconstrues § 1510.63(a)(3)(i). That section does not mean that otherwise "proper" removal actions by the discharged are rendered improper simply because the discharger seeks Federal assistance.

Comments on Section 1510.64—Special Forces

Several comments were received concerning this section. The State of Washington felt that this section duplicated and conflicted with its own oil and hazardous spills contingency plan provisions governing marine resources damage assessment. Section 1510.64 has been substantially revised based on NRT recommendations and the comments received. With respect to the State of Washington's comment, § 1510.64(c)(2)(i)(aa) makes it clear that well developed state scientific support organizations like Washington's should be employed to support the OSC. Section 1510.64 is not to be construed as requiring the development of duplicatory federal scientific support coordinators where an effective state scientific support organization can be utilized to support the OSC, as coordinated by the state representative on the Regional Response Team.

One commenter recommended changing the title of Scientific Support Coordinator to Scientific Support Advisor. However the NRT believes that Scientific Support Coordinator more accurately reflects the role of the scientific support organization which involves advice to the OSC and RRT but is primarily a coordination role. For this reason the title was not changed.

Another comment recommended that the discharger be advised of the scope of studies to be undertaken by the scientific support organization and be offered an opportunity to comment on its potential liability. The Plan recognizes, as the comment points out, that the line between damage assessment studies (where there may be liability) and pure research (where there is no liability) is difficult to draw. However this problem is addressed in revised §§ 1510.65 (b) and (c) which make it clear that the OSC is to exercise sufficient control over removal operations (including damage assessment) to be able to certify that reimbursement is appropriate.

Concern has also expressed that proposed § 1510.64(c)(1) "would seemingly exclude contractual agreements with commercial environmental firms" to provide scientific assistance and damage assessment for the OSC. This was not the intent, and § 1510.64(c)(2)(i)(aa), as rewritten, expressly includes industry.

Comments on Section 1510.65—Funding

Several comments were received critical of the proposed language in § 1510.65(c). The concern expressed by these comments was that the proposed language implied that the OSC would not be requesting services and resources where essential to an effective Federal response. The Council agrees that the indicated language in proposed § 1510.65(c) was inappropriate. Therefore the last three sentences in proposed § 1510.65(c) were removed and conforming changes were made to the last sentences in § 1510.65(b) and 1510.65(c).

Other Comments

The Commonwealth of Massachusetts urged that the Plan provide for the financial capability of the participating agencies in carrying out the Plan, through an annual assessment of funds available to each agency. The Plan is not authorized to require annual assessments. In response to this comment, however, § 1510.65 relating to funding has been changed to clarify each agency's funding authority and responsibility. Massachusetts also indicated that proposed § 1510.64(c) providing for scientific support coordinators from both EPA and NOAA was a costly redundancy. Section 1510.64(c) has been modified but still preserves the SSC role for EPA in inland waters and for NOAA in coastal waters because the NRT determined this allocation of agency expertise would be the most effective.

The New England Congressional Caucus recommended provision in the Plan for requiring spill cleanup equipment to be stationed near areas of probable spills. The NRT recommended that rather than stationing equipment the most efficient approach is to maintain an up-to-date national inventory and to provide in local contingency plans for the identification of types and locations of clean-up equipment and resources. The Council adopted the NRT recommendation. The

Caucus also recommended that the Atlantic Strike Team be redeployed to an area to the northeast of its present location. Deployment decisions are within the jurisdiction of the U.S. Coast Guard. The Council has therefore referred this recommendation to the U.S. Coast Guard.

The International Association of Fire Chiefs expressed concern that the Plan unduly and excessively interfered with local agency authority to control and supervise spill response efforts, particularly with respect to responses by local fire and civil defense officials. A number of changes were made in response to this criticism in order to highlight the importance of coordination with local officials and to emphasize that the Plan covers only the Federal response. See §§1510.23(a), 1510.34(f), 1510.36(d), 1510.37(a)(1) and 1510.42(a). Concern was also expressed that §1510.57(a) authorizes the OSC to keep the fire chief and civil defense officials out of the affected area. That section is not intended to give the OSC such authority. Local contingency plans, particularly with the cooperation of local fire and civil defense officials, are to be developed in a manner consistent with local fire and disaster plans and requirements. See §1510.42(a).

One comment recommended expansion and clarification of the Plan concerning the relationship between a responsible discharger (a discharger who is taking proper action to clean up the spill) and the Federal government. The comment recommended coverage of at least four points which are listed below with responses:

(1) What is the continuing role of the OSC if the discharger is in charge of the clean up operation? This question is addressed by §§1510.21(a) and 1510.52(c) which provides that the OSC has a continuing responsibility to monitor clean up actions being taken by the discharger and to provide advice.

(2) Does the OSC continue as the government spokesman for all levels of government? This is addressed in the affirmative by §§1510.5(k) (definition of OSC), 1510.21(a) and Section 1510.52(c).

(3) How is government support and assistance obtained by the discharger (e.g. scientific support)? This is addressed by §§1510.52(c), 1510.63(a)(3), 1510.63(b)(3)(ii) and 1510.64. The OSC's monitoring and surveillance duties includes providing advice and assistance to dischargers concerning proper cleanup and removal actions. Dischargers are encouraged to seek scientific support advice through the OSC on matters not already covered by this Plan and annexes, and the applicable regional and local contingency plans.

(4) How are relations with the news media and public handled? Section 1510.37 provides for relations with the news media and for public information where there is a Federal response to a spill under the Plan. The Plan, of course, cannot govern the manner or content of information provided by the discharger. Where the discharger retains control of the cleanup and removal actions, the public information and news media provisions in §1510.37 will not apply; they only apply where a Federal response is initiated under this Plan.

For the reasons given above, and because the NRT does not believe any significant problems exist in the relationship between the discharger and the Federal government that are not already addressed in the Plan, the NRT recommended that no additional provisions be added to the Plan concerning these points. The Council deferred to the NRT's recommendations.

Several comments from the oil industry recommended that the Plan require the RRT to send copies of their activity reports (under §1510.34(g)(9)) to the oil industry. These reports are available to the public; the American Petroleum Institute representative attending NRT meetings as an observer will be able to obtain copies of such reports and provide for appropriate distribution to the oil industry.

One comment recommended deletion of the term "Coker Feed" in Annex VIII as being inaccurate. This recommendation was adopted.

E. Additional Changes Based on Federal Interagency Comments and NRT Recommendations

Following publication of the proposed revisions to the National Contingency Plan federal agency review resulted in a number of additional changes of essentially a clarifying nature. These are summarized below.

The distinction between Federal primary and advisory agencies under the Plan has been eliminated since over a period of time it has become meaningless. All Federal agencies under the Plan are now referred to as participating agencies. See §§1510.5, 1510.22, 1510.32.

Provisions governing referrals and appeals of decisions by the Regional Response Teams have been clarified. See §§1510.2(10), 1510.32 (m) and (n).

Descriptions of Federal agency expertise and roles under the Plan have been further updated. See §§1510.4, 1510.22(b), 1510.64(c), and Annex III.

Section 1510.37 concerning the public information network has been substantially revised both in response to public comments and to incorporate experience gained by the NRT during 1979 concerning the Campeche Bay and other oil spills affecting U.S. waters in the Gulf of Mexico.

Section 1510.64 relating to Special Forces has been revised in response to public comments and NRT recommendations, particularly with respect to clarifying the responsibilities of NOAA, EPA and the Department of the Interior (Fish and Wildlife Service) in providing scientific support.

F. Regulatory Analyses

Because the Plan governs the Federal government's response to oil and hazardous substances pollution and does not regulate private activities, and since the revisions to the Plan are primarily of a simplifying and updating nature, the Council, supported by a recommendation from the NRT, determined that a regulatory analysis under E.O. 12044 was not required in conjunction with the publication of the Final revisions. The final revisions to the National Contingency Plan implement the policy and other requirements of Executive Order 12044 (Improving Government Regulations) to the fullest extent possible. The revised Plan has been simplified and substantially rewritten in plain language. In reviewing the proposed revisions the Council gave careful attention to minimizing any burden on the public.

The determinations required by Section 2(d) of the Order have been made by the Council and are available on request.

G. Conclusion

We could not, of course, adopt every suggestion that was made on revisions to the National Contingency Plan. We have tried to respond to the major concerns that were expressed. We are confident that any issues which arise in the future can be resolved through recommendations by the public, state and local governments and the participating agencies to the Regional Response Teams and the National Response Team. The National Response Team will continue to supervise implementation of the Plan and, where appropriate, make recommendations to the Council for additional revisions.

We appreciate the efforts of the many people who participated in developing and refining the revisions to the Plan.

Gus Speth,

Chairman.

Part 1510 is revised to read as set forth below:

PART 1510—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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1510.2 Authority.
1510.3 Scope.
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Subpart B—Policy and Responsibility

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Subpart D—Plans

1510.41 Regional contingency plans.
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Subpart E—Operational-Response Phases

1510.51 Phase I—Discovery and notification.
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Subpart F—Coordinating Instructions

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Authority: Sec. 311(c)(2), Pub. L. 92-500, as amended; 86 Stat. 865, 33 U.S.C. 1321(c)(2); Executive Order 11735, 38 FR 21243 (August 1973).

Subpart A—Introduction

§ 1510.1 Purpose and objectives.

This National Oil and Hazardous Substances Polution Contingency Plan provides for coordinated Federal action to try to prevent discharges of oil and hazardous substances, and to protect the environment from damage when discharges occur. The Plan also promotes Federal-State coordination and encourages local governments and private firms to build capabilities for cleaning up discharges.

§ 1510.2 Authority.

This Plan was developed in compliance with Section 311(c)(2) of the Clean Water Act, as amended (33 U.S.C. 1321(c)(2)). In Executive Order 11735, the President delegated to the Council on Environmental Quality authority and responsibility to prepare, publish, revise, and amend a National Contingency Plan for the removal of oil and hazardous substances.

(b) The Plan and its Annexes, and regional and local plans, provide for:

(1) Assignment of responsibilities among Federal agencies, in coordination with State and local agencies;

(2) Identification, procurement, maintenance, and storage of equipment and supplies;

(3) Establishment or designation of

(i) A strike force to carry out the Plan and

(ii) Trained and adequately equipped emergency task forces at major ports;

(4) A system of surveillance and reporting to give responsible Federal and State agencies the earliest possible notice of discharges of oil and hazardous substances or imminent threats of such discharges.

(5) Establishment of a national center to provide for coordination and direction of operations in carrying out the Plan;

(6) Procedures for identifying, containing, dispersing, and removing oil and hazardous substances;

(7) A schedule, prepared in cooperation with the states, identifying any dispersants or other chemicals that may be used in carrying out the Plan;

(8) A system for reimbursing states for reasonable costs incurred in removing discharges;

(9) A procedure for coordinating scientific support of cleanup operations, assessment of damage after a spill, and research efforts; and

(10) A system for referral and appeal of decisions of the Regional Response Teams and On-Scene Coordinators.

§ 1510.3 Scope.

(a) The Plan applies to all Federal agencies and is in effect for the navigable waters of the United States and adjoining shorelines, for the contiguous zone, and the high seas beyond the contiguous zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), (See Sections 311(b)(1) and 502(7) of the Clean Water Act).

(b) Implementation of this Plan is complementary to the Joint U.S./Canadian Contingency Plan (including the annexes pertaining to the Great Lakes, and the Eastern and Western coastal areas); the Joint U.S./Mexican Contingency Plan (when adopted by both parties); and international assistance plans and agreements, security regulations, and responsibilities based upon Federal statutes and Executive Orders. This Plan shall be utilized to coordinate U.S. involvement in pollution incidents occurring in waters not under the management jurisdiction of the United States.

§ 1510.4 Abbreviations.

(a) *Department and Agency title abbreviations:*

CEQ—Council on Environmental Quality.
Corps—U.S. Army Corps of Engineers.
DHEW—Department of Health, Education, and Welfare.
DOC—Department of Commerce.
DOD—Department of Defense.
DOE—Department of Energy.
DOI—Department of the Interior.
DOJ—Department of Justice.
DOL—Department of Labor.
DOS—Department of State.
DOT—Department of Transportation.
EPA—Environmental Protection Agency.
FEMA—Federal Emergency Management Agency.
FWS—U.S. Fish and Wildlife Service.
MarAd—Maritime Administration.
NMFS—National Marine Fisheries Service.
NOAA—National Oceanic and Atmospheric Administration.
USCG—U.S. Coast Guard.
USDA—Department of Agriculture.
USGS—U.S. Geological Survey.
USN—U.S. Navy.

(b) *Operational title abbreviations:*

ERT—Environmental Response Team.
NRC—National Response Center.
NRT—National Response Team.

OSC—On-Scene Coordinator.
PIAT—Public Information Assistance Team.
SSC—Scientific Support Coordinator.
RRC—Regional Response Center.
RRT—Regional Response Team.

§ 1510.5 Definitions.

(a) Act—means the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

(b) Activation—means notification by telephone or other expeditious means to the appropriate state and local officials, to the regional or district office of participating agencies, or, when required, the assembly of some or all members of the RRT or the NRT.

(c) Coastal waters—generally means U.S. waters which are navigable by deep draft vessels, including the contiguous zone and parts of the high seas to which this Plan is applicable and other waters subject to tidal influence.

(d) Contiguous Zone—means the zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, which is contiguous to the territorial sea and which extends 12 miles seaward from the same baseline from which the territorial sea is measured.

(e) Discharge—includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil or hazardous substances. Discharges permitted under Section 301, 302, 306, 318, 402 or 404 of the Act or Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. No. 92–532) are not included.

(f) Hazardous substance—means any substance designated as hazardous under subsection (b)(2) of section 311 of the Act (see 40 CFR Part 116).

(g) Inland waters—generally means U.S. waters upstream from coastal waters.

(h) Major disaster—means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, drought, fire or other catastrophe in the United States which the President determines to be damaging enough to warrant major disaster assistance under the Disaster Relief Act of 1974 (Pub. L. 93–288).

(i) Presidential Emergency Determination—a formal Presidential decision made at the request of a State Governor determining that a situation constitutes an "emergency" in accordance with the provisions of the Disaster Relief Act of 1974 (Pub. L. 93–288).

(j) Oil—means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(k) On-Scene Coordinator (OSC)—means the Federal official predesignated by the EPA or the USCG to coordinate and direct the Federal response to spills, and discharge removal efforts at the scene of a discharge.

(l) Phases—response actions fall into five classes or phases. Phase I is Discovery and Notification; Phase II, Evaluation and Initiation of Action; Phase III, Containment and Countermeasures; Phase IV, Removal, Mitigation and Disposal; and Phase V, Documentation and Cost Recovery. Elements of any phase may coincide with other phases. For a full description of the phases, see Subpart E, § 1510.51–55.

(m) Plan—means the National Oil and Hazardous Substances Pollution Contingency Plan.

(n) Potential discharge—means any accident or other circumstance which constitutes a substantial threat of a discharge of oil or hazardous substance. Severity of potential discharges shall be classified according to the guidelines in subparagraph (r) below.

(o) Participating agencies—means all departments and agencies on the NRT that have responsibility and provide resources for the effective operation of this Plan.

(p) Public health or welfare—includes all factors affecting human health and welfare, including, but not limited to, human health, the natural environment, fish, shellfish, wildlife, and public and private property, shorelines and beaches.

(q) Remove or removal—means the removal of oil or hazardous substances from the water and shorelines or taking necessary actions to minimize or mitigate damage to the public health or welfare. Under this Plan, removal refers to Phase III and IV response operations.

(r) Size classes of discharges—The following classifications are provided as guidance for the OSC and serve as the criteria for the actions delineated in Section 1510.63. They are not meant to imply associated degrees of hazard to the public health or welfare, nor are they a measure of environmental damage. Any discharge that poses a substantial threat to the public health or welfare, or results in critical public concern shall be classed as major discharge regardless of the following quantitative measures.

(1) Minor discharge—means a discharge to the inland waters of less than 1000 gallons of oil; or a discharge to the coastal waters of less than 10,000 gallons of oil; or a discharge of a hazardous substance in a quantity less than that defined as reportable by regulation (40 CFR Part 117).

(2) Medium discharge—means a discharge of 1,000 to 10,000 gallons of oil to the inland waters; or a discharge of 10,000 gallons to 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance equal to or greater than a reportable quantity as defined by regulations (40 CFR Part 117).

(3) Major discharge—means a discharge of more than 10,000 gallons of oil to the inland waters; or more than 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance that poses a substantial threat to the public health or welfare, or results in critical public concern.

(s) United States—means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Subpart B—Responsibility

§ 1510.21 Federal responsibility.

(a) This Plan seeks to insure a coordinated Federal response at the scene of a discharge, or a potential discharge of oil or hazardous substance that poses a threat to the public health or welfare. In the event of a discharge, the Federal OSC shall first promptly determine (under section 311(c)(1) of the Act) whether the person responsible for the discharge is taking proper action to remove the discharge or threat of discharge. If practicable, the OSC shall make the person responsible aware of his financial responsibility. If the OSC determines that the person responsible is taking proper action, the OSC shall monitor progress and provide advice. If the person responsible does not act promptly or fails to take proper removal actions, or if the person responsible is unknown, or if a potential discharge is considered to exist, further Federal response actions shall be undertaken promptly in accordance with this Plan.

(b) Removal actions taken under section 311(c)(1) of the Act are limited to the areas described in § 1510.3(a) (Scope of Plan). When a discharge or potential discharge that poses a threat to U.S. waters, occurs outside the Plan's jurisdiction, the procedures of this Plan and those of regional and local plans apply to the extent practicable; removal will take place under other legal authorities.

(c) In accordance with section 311(d) of the Act, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a

discharge or an imminent discharge of large quantities of oil or a hazardous substance from a vessel, the United States may:

(1) Coordinate and direct all public and private efforts for the removal or elimination of the threat; and

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this Plan.

(d) When the Administrator of EPA or the Secretary of the Department in which the Coast Guard is operating determines there is an imminent and substantial threat to the public health and welfare because of an actual or threatened discharge of oil or hazardous substance into or upon the waters of the United States from any onshore or offshore facility, he may require, through the Attorney General, that the U.S. Attorney of the district in which the threat occurs secure the relief necessary to abate the threat. The NRT may request EPA or the USCG to exercise this authority. The action described here is in addition to any other actions taken by a state or local government for the same purpose.

(e) Federal agencies with facilities or other resources which may be useful in a Federal response situation will make those facilities or resources available for use in accordance with this Plan and the regional and local plans. Federal resources shall be made available to the extent possible, consistent with agencies' operational requirements, within the limits of existing statutory authority, and within the spirit of the President's and the Congress intent to minimize discharges and their effects.

(f) Environmental pollution control techniques shall be employed in accordance with applicable regulations and guidelines, and regional and local contingency plans. In any circumstances not covered by regulations, the use of chemicals shall be in accordance with Annex X and must have the concurrence of the EPA representative or alternate representative on the RRT. In the absence of the EPA representative or alternate, the concurrence of the appropriate EPA regional administrator must be obtained.

(g) Response actions to remove discharges originating from Outer Continental Shelf Lands Act operations shall be in accordance with the August 1971 Memorandum of Understanding between DOI and DOT concerning respective responsibilities under this Plan.

(h) Discharges of radioactive materials shall be handled pursuant to the Interagency Radiological Assistance Plan which is administered by the Department of Energy.

§ 1510.22 Duties of Federal agencies.

(a) Each of the participating Federal agencies has duties established by statute, Executive Order, or Presidential directive which may be relevant to the Federal response to a pollution discharge. See Annex IV for a description of applicable legal authorities. Regional contingency plans shall call upon agencies to discharge these duties in a coordinated manner. They shall provide for:

(1) Identification of the statutory responsibilities of all agencies involved;

(2) Prompt notification of agency representatives in the event of a threatened or actual oil or hazardous substances spill;

(3) Designation of agency representatives to assist OSCs in developing local contingency plans; and

(4) Coordination of agency representatives with the OSC during a pollution incident (see § 1510.36(a)(3)).

(b) The following Federal agencies have specific duties and responsibilities which are relevant to a response to discharges of oil or hazardous substances:

(1) The Council on Environmental Quality is responsible for preparing, publishing, revising and amending the National Contingency Plan. The NRT will advise CEQ on necessary changes to the Plan and CEQ shall insure that any disagreements among participating agencies are expeditiously settled.

(2) The Department of Agriculture provides expertise in managing agricultural, forest, and wilderness areas and in selecting landfill disposal sites. The Soil Conservation Service can provide to the OSC predictions of the effects of pollutants on soil and their movements over and through soil.

(3) The Department of Commerce, through NOAA, shall provide scientific expertise on living marine resources for which it is responsible, including endangered species and marine mammals (see § 1510.36(a)(3)); coordinate scientific support, provide current and predicted meteorologic, hydrologic, ice and oceanographic conditions for the high seas, coastal, and inland waters; provide charts and maps, including tide and current information, for coastal and territorial waters and the Great Lakes; and assist EPA in damage assessment in coastal areas and on the high seas. When requested by NRT, DOC through MarAd will provide advice on the design, construction and operation of merchant ships.

(4) The Department of Defense, consistent with its operational requirements, may provide assistance in maintaining navigation channels, in the removal of navigation obstructions, and in salvage. Upon request of the OSC, NRT, or USCG, the services and special equipment of the Supervisor of Salvage, USN will be provided as available for the cleanup and control of oil spills. Upon request from the OSC, locally deployed Navy equipment may be provided.

(5) The Department of Energy administers, implements, and coordinates the Interagency Radiological Assistance Plan (IRAP). DOE will advise the NRT when assistance is required in identifying the source and extent of radioactive contamination, and in the removal and disposal of radioactive discharges.

(6) The Department of Health, Education, and Welfare is responsible for providing expert advice and assistance on discharges or potential discharges that pose a threat to public health and safety.

(7) Federal Emergency Management Agency participates in the development and evaluation of national, regional, and local oil and hazardous substance pollution contingency plans in accordance with Executive Order 12148, Section 2–1; monitors responses related to such plans in accordance with Executive Order 12148, Section 2–2; and evaluates State Governors' requests for Presidential declarations of major disasters or determinations of emergency under Pub. L. 93–288 (42 U.S.C. 4401, *et seq.*), the Disaster Relief Act of 1974.

(8) The Department of Interior, through the USGS, can provide expertise in the fields of oil drilling, producing, handling, and transportation by pipeline. The USGS supervises continuously manned facilities which can be used for command, control and surveillance of discharges occurring from operations conducted under the Outer Continental Shelf Lands Act. The Bureau of Mines may provide analytical facilities which in an emergency could be of aid in identifying inorganic hazardous substances. Through its pollution response coordinators, the Fish and Wildlife Service of DOI will provide technical expertise to the OSC and RRT on fish and wildlife and their habitats, including migratory birds, marine

mammals, and endangered and threatened plants and animals (See § 1510.36(a)(3)). DOI is responsible for implementing this plan in American Samoa and the Trust Territory of the Pacific Islands when required.

(9) The Department of Justice can provide expert advice on complicated legal questions arising from discharges and Federal agency responses.

(10) The Department of Labor, through the Occupational Safety and Health Administration, will provide the OSC with advice, guidance, and assistance regarding hazards to persons involved in removal or control of oil or chemical spills, and in the precautions necessary to prevent hazards to their health and safety.

(11) The Department of Transportation provides expertise on all modes of transporting oil and hazardous substances. Through the USCG, DOT offers expertise in the domestic/international fields of port safety and security, marine law enforcement, ship navigation and construction, and the manning, operation, and safety of vessels and marine facilities. The USCG also maintains continuously manned facilities which can be used for command, control, and surveillance of oil discharges occurring on the waters of the United States or the high seas. For those areas where it provides the OSC, the USCG chairs the RRT which develops, implements, and revises the regional and local contingency plans as necessary.

(12) The Department of State will lead in developing joint international contingency plans. It will also help to coordinate an international response when pollution discharge crosses international boundaries or involves foreign flag vessels. Additionally, this Department will coordinate requests for assistance from foreign governments and U.S. proposals for conducting research at incidents that occur in waters of other countries.

(13) The Environmental Protection Agency provides expertise on environmental effects of pollution discharges and environmental pollution control techniques. EPA will also advise the RRT and OSC on what degree of hazard a discharge poses to the public health and safety, and will coordinate scientific support, including assessment of damages, in the inland regions. For those areas where it provides the OSC, EPA chairs the RRT which develops, implements, and revises regional and local contingency plans as necessary. EPA will coordinate with USCG in the preparation of regional and local contingency plans for pollution control and protection of the environment.

(c) All Federal agencies are responsible for minimizing the possibility of discharges; for developing the capability to respond promptly to discharges from facilities they operate or supervise; and for making resources available for Federal pollution response operations.

(d) In addition to their general responsibilities under paragraph (c) of this section, participating agencies are responsible for:

(1) Leading all Federal agencies in programs to minimize environmental damage associated with discharges from facilities they operate or supervise;

(2) Providing representation as necessary to the NRT and RRTs, and giving assistance to the RRTs and OSCs in formulating regional and local contingency plans;

(3) Developing the operating capability in their particular areas of expertise for a rapid response to any pollution discharge in coordination with other Federal agencies;

(4) Making necessary information available to the NRT, RRT, or OSC; and

(5) Informing the NRT and RRTs (consistent with national security considerations) of changes in the availability of resources that would affect the operation of this Plan.

§ 1510.23 Non-Federal participation.

(a) Every State Governor is asked to assign an office or agency to represent the State on the RRT. The State's representative should participate fully in all facets of RRT activities and shall designate the element of the State government that will direct state supervised discharge removal operations. Participation of officials from municipalities with major ports and waterways is also invited in the RRT. (See § 1510.34(f).)

State and local government agencies are encouraged to include contingency planning for discharge removal in all emergency and disaster planning. Federal local contingency plans required by this Plan shall be coordinated with plans developed by state and local governments. This is especially important for traffic control, land access, and disposal of pollutants in removal operations.

(b) States, industry groups, academic organizations, and others are encouraged to commit resources for removal operations. Specific commitments shall be listed in Federal regional and local contingency plans. EPA and the USCG should explore the possibility of concluding memoranda delegating responsibility to concerned States for cleanup of certain spills. Details on reimbursement to states for removal actions taken under to this Plan are contained in § 1510.65 and 33 CFR Part 153.

(c) It is particularly important to coordinate the technical information generated by scientists from the Federal and State governments, from industry, universities, and elsewhere to assist the OSC in developing cleanup strategies in environmentally sensitive areas; to assist in the performance of post spill damage assessments; and to assure that pertinent research will be undertaken to meet national needs. The scientific support aspect of this Plan is described in § 1510.64.

(d) Federal local contingency plans should establish procedures to allow for well-organized and worthwhile employment of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, local or state officials knowledgeable in contingency operations and capable of providing leadership. Local plans should also identify specific areas in which volunteers can best be used such as: beach surveillance, logistical support, bird and wildlife treatment, and scientific investigations. Normally, volunteers should not be used for physical removal of pollutants. If the substance discharged is toxic to humans, or if in the judgment of the OSC other dangerous conditions exist, volunteers shall not be permitted at on-scene operations. Regional and local contingency plans should provide for routine education and training of volunteers so that training during an actual incident will not be necessary. Information on discharge and removal efforts should be provided to volunteers frequently during the course of planning to insure coordinated effort and meaningful participation.

Subpart C—Organization

§ 1510.31 Emergency response activities and coordination.

(a) In a pollution emergency, the OSC is responsible for Federal on-scene coordination. The OSC provides reports to and receives advice from the RRT charged with regional coordination. The RRT is composed of representatives from the regional and district offices of the participating agencies, States, and local governments.

(b) National coordination is accomplished through the NRT which receives reports from and provides guidance and advice to the RRTs. Activities are coordinated through the facilities of the national and regional response centers.

(c) The organization of this Plan is shown in Figure 1.

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National Contingency Plan Concepts

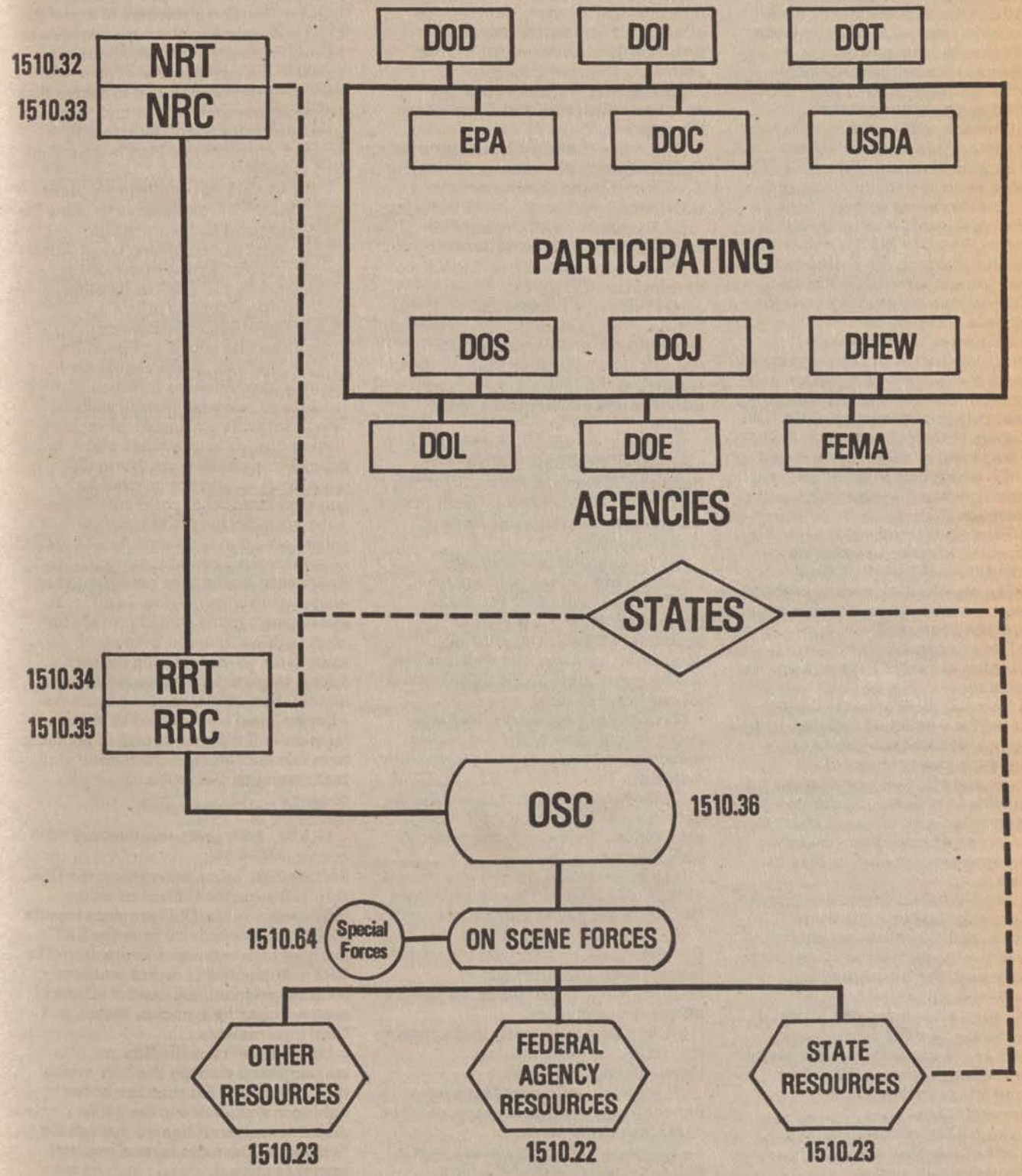

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Figure 1

§ 1510.32 National Response Team.

(a) The NRT consists of representatives from the participating agencies. It is the national body for planning and preparedness before a pollution discharge and for coordination and advice during a discharge. Each participating agency shall designate a member to the team and sufficient alternates to insure representation.

(b) Except for periods of activation because of a pollution incident, the representative of EPA shall be the chairman and the representative of DOT shall be vice-chairman of the NRT. The vice-chairman shall maintain records of NRT activities along with national, regional and local plans for pollution response. When the NRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area in which the response is taking place.

(c) NRT meetings are open to the public. Upon invitation of the chairman and with the consent of members, non-government observers may participate without vote in any meeting of the NRT on matters of their direct concern. They shall be provided with reports issued by the NRT. Invitations to participate shall be given to a non-Government organization if:

(1) The organization can reasonably be expected to make a significant contribution to the work of the Team;

(2) The organization's work, past and present, has a direct relationship to the work of the Team; and

(3) The organization is not represented at the NRT through another organization.

(d) Normally, when the NRT is not activated for a pollution incident, it shall serve as a standing committee to evaluate the preparedness of the agencies and effectiveness of plans for responding to pollution discharges, to recommend needed policy changes in the response organization, and to recommend revisions to this Plan as needed.

(e) The NRT shall consider and make recommendations to appropriate agencies on the training and equipping of response teams; necessary research, development, demonstration, and evaluation to improve response capabilities; and equipment, material stockpiling, and other operational matters as the need arises. CEQ shall be advised of any agency's failure to respond adequately to these recommendations.

(f) The NRT shall recommend revisions of this Plan to CEQ for approval and publication.

(g) Scientific advisors shall be designated, from EPA, DOC–NOAA, and DOI–FWS, to advise the NRT on scientific matters related to pollution response, and to coordinate and oversee the regional scientific support mechanism (see § 1510.64). They shall also evaluate and advise the NRT on the desirability of carrying out research affecting waters and resources not under the jurisdiction of the United States.

(h) The NRT shall establish and maintain a Research and Development Committee to:

(1) Provide the latest information on Federal agencies' research, development, and demonstration activities for spill response and cleanup;

(2) Respond to NRT requests for scientific and technical information;

(3) Identify appropriate research and development initiatives;

(4) Provide for information exchange between agencies on response research, development, and demonstration projects. The committee shall report to the NRT at the June and December meetings and at other times upon request.

(i) Ad hoc committees may also be established from time to time. Representatives from the participating agencies with direct involvement in such committees' charters shall serve on these committees.

(j) Planning and preparedness responsibilities of the NRT are to:

(1) Make a continuing review of regional responses to pollution incidents, with an evaluation of equipment readiness and coordination among responsible public agencies and private organizations.

(2) Consider necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents;

(3) Develop procedures to ensure the coordination of Federal, state, local government, and private responses to pollution incidents;

(4) Review regional plans and reports of activities from RRTs, and make sure that RRTs are functioning satisfactorily.

(5) Inform the Research and Development Committee on research requirements identified during discharges of unusual materials or under unique circumstances;

(6) Review continuously and act upon reports by the Research and Development Committee;

(7) Maintain readiness to respond to a nationally significant discharge of oil or hazardous substances;

(8) Monitor incoming reports from all RRTs and activate the NRT for a pollution incident when appropriate; and

(9) Meet monthly or more frequently to review pollution emergency response actions of the preceding period, receive reports from the R&D Committee and ad hoc committees. Information on the time and place of meetings may be obtained from the National Response Center (see § 1510.33).

(k) The NRT shall be activated as an emergency response team when requested by any team representative or when a discharge:

(1) Exceeds the response capability of the region in which it occurs;

(2) Transects regional boundaries; or

(3) Involves significant population hazards or national policy issues, substantial amounts of property, or substantial threats to natural resources.

When acting as an emergency response team, the NRT shall consist of representatives from the participating agencies. Each representative or an appropriate alternate shall be notified immediately by telephone of the emergency activation of the NRT.

(l) When activated for a pollution incident the NRT shall meet at the call of the chairman and shall:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT, actions to combat the discharge;

(2) Request other Federal, state, and local governments, or private agencies to consider providing resources under their existing authorities to combat a discharge of monitor response operations;

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts; and

(4) Prepare public information releases and transfer information between the OSC and the Washington, D.C., headquarters of the agencies concerned. Public information is discussed in § 1510.37.

(m) The NRT shall consider any matter referred to it for settlement by an RRT or OSC when the matter cannot be resolved at regional level on an interagency basis. Unless circumstances dictate otherwise, further actions will not be taken on matters thus referred to NRT until the NRT position has been transmitted to the RRT and OSC. Any member of an RRT may petition the NRT for a review of matters considered by the RRT. Petitioning RRT members may appear before the NRT to present their arguments but shall not have the right to vote in NRT deliberations on the disputed matter. While the NRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable through normal debate or discussion. In such cases,

each cabinet department or independent agency serving as a participating agency on the NRT shall be accorded one vote in NRT proceedings.

§ 1510.33 National Response Center.

(a) The NRC is the national communications center for activities related to pollution incidents. It is located at the Washington, D.C., Headquarters of the USCG. Notice of discharges should be made through a toll free number, a special local number, or through telephone and teletype circuits. (Details appear below and in Annex V.) The NRC relays notices of discharge to the appropriate OSC. It disseminates OSC and RRT reports to the NRT when appropriate. It provides facilities for the NRT to use in coordinating a national pollution emergency response when required.

(b) The Commandant, U.S. Coast Guard, shall provide the necessary communications, plotting facilities, and equipment. These will include:

(1) A continuously manned communication center for receiving reports of discharges;

(2) Telephone branch lines;

(3) Teletypewriter circuits;

(4) The latest updated charts of the Departments of Commerce, Interior and Defense for the U.S. waters, the Continental Shelf and the ocean areas adjacent to the U.S. Territorial waters;

(5) Technical library on oil and hazardous substances pollution (described in Annex VII); and

(6) Plotting and display facilities to depict the geographic position, movement, and extent of the discharge.

(c) The USCG shall furnish technical manuals and materials, and necessary administrative support to operate the NRC effectively and efficiently.

(d) Participating agencies may use normal communication circuits to fulfill their responsibilities under the Plan. Telephone numbers for the primary notification offices of interested agencies will be maintained in NRC and in RRCs.

(e) First notice of a pollution discharge shall be made immediately (in accordance with 33 CFR 153.203) either to the NRC Duty Officer, HQ USCG, Washington, D.C., toll free telephone (800) 424–8802 (or 426–2675 in the Washington, D.C., local calling area), or to the predesignated OSC (see Annex III). All notices of discharges received at the NRC shall be relayed immediately by telephone to the OSC. The NRC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations.

(f) Pollution Reports (POLREPS) shall be submitted by the RRT to the NRC as developments occur and not later than 1600 local time on each day of a pollution response operation. Pollution Reports shall be disseminated by the NRC to NRT members as requested by those members.

§ 1510.34 Regional Response Team.

(a) The RRT serves as the regional body for planning and preparedness actions before a pollution discharge and for coordination and advice during a pollution discharge. The RRT consists of regional representatives of the participating agencies, state, and local government representatives as appropriate. The full participation of high level representation from States and local governments with major ports and waterways is desired. (See §§ 1510.23(a) and 1510.34(f).)

(b) Except when the RRT is activated for a pollution incident, the representatives of EPA and DOT shall act as co-chairmen. When the RRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area of the spill and the response.

(c) Each participating agency shall designate one member and at least one alternate member to the RRT. Participating States and local governments should also designate one member and at least one alternate member to the Team. Agencies may also provide additional representatives as observers to meetings of the RRT. Persons representing Federal and State agencies shall be specified in each regional contingency plan.

(d) RRT members shall designate representatives from their agencies to work with OSCs in developing local contingency plans, providing for the use of agency resources, and in responding to pollution incidents.

(e) The chairman of RRT shall ensure that the regional and local contingency plans adequately provide the OSC with assistance from the Federal agencies commensurate with agencies' resources, capabilities and responsibilities within the region. During a pollution emergency, the members of the RRT shall insure that the resources of their agencies are made available to the OSC as specified in the regional and local contingency plans.

(f) Affected states are encouraged to participate actively in all RRT activities (see § 1510.23(a)), to designate representatives to work with the RRT and OSC's in developing regional and local plans, plan for and make available State resources, and serve as the contact point for coordination with local government agencies in responding to pollution incidents. When the RRT is activated for a pollution emergency, affected States are invited to participate in all RRT deliberations. Any State or local government representative who participates in the RRT has the same status as any Federal member of the RRT.

(g) When not activated for a pollution incident, the RRT serves as a standing committee to recommend needed policy changes in the regional response organization, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for the Federal response to pollution incidents. The RRT shall:

(1) Make a continuing review of regional and local responses to pollution incidents, considering equipment readiness and coordination among responsible public agencies and private organizations;

(2) Recommend revisions to this National Contingency Plan to the NRT, on the basis of observations of response operations;

(3) Consider and recommend necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents;

(4) Develop procedures to insure the coordination of Federal, State, local government, and private responses to pollution incidents;

(5) Review the functioning of OSCs to insure that local contingency plans are developed satisfactorily;

(6) Be prepared to respond to a major discharge of oil or hazardous substances outside its region;

(7) Monitor incoming reports from all OSCs and activate the RRT when appropriate; and

(8) Meet quarterly to review response actions carried out during the preceding period, and consider changes in both regional and local contingency plans. In those regions having both coastal and inland RRTs, RRT meetings held in alternating quarters (inland in March, coastal in June, etc.) would meet this requirement.

(9) RRTs shall provide letter reports on their activities to the NRT twice a year, no later than 31 January and 31 July. The reports will help to identify techniques and procedures that have worked well and subjects requiring improvement and should be circulated to other RRTs. At a minimum, reports will contain paragraphs covering:

(i) *Summary of Activities,* containing highlights of routine meetings and activations during the reporting period;

(ii) *Organizational Matters,* Outlining improvements made since the last report. Organizational matters requiring NRT action should be included. RRTs

are encouraged to add detailed accounts of successful procedures;

(iii) *Operations*, including recommendations, comments or observations on response methods, equipment, training or other operational matters which have not been addressed in the review of OSC reports.

(h) Each coastal RRT is required to conduct an annual training exercise in which response equipment is actually deployed. These exercises should use all existing capabilities in the local port area. Any funding required to support the exercise should be requested through the normal agency budget process. The RRT shall cooperate to the fullest extent possible in field exercises of member agencies.

(i) RRTs for inland regions are strongly encouraged to conduct an annual training exercise in which response equipment is actually deployed. RRTs for inland regions shall cooperate to the fullest extent possible in field exercises of member agencies.

(j) The RRT shall be activated as an emergency response team when a discharge:

(1) Exceeds the response capability available to the OSC in the place where it occurs;

(2) Transects regional boundaries; or

(3) Poses a substantial threat to the public health and welfare or to regionally significant amounts of property. Regional contingency plans shall specify detailed criteria for activation of RRTs.

(k) The RRT shall be activated automatically in the event of a major or potential major discharge. The RRT may be activated during any other pollution emergency by an oral request from any RRT representative to the chairman of the Team. Requests for Team activation shall later be confirmed in writing. Each representative, or an appropriate alternate, shall be notified immediately by telephone when the RRT is activated. POLREPS to the NRC from RRTs shall include the time of Team activation, method of activation (e.g., telephone) and place of assembly (if appropriate).

(l) When activated for a pollution incident, agency representatives shall meet at the call of the chairman and shall:

(1) Monitor and evalute reports from the OSC. The RRT shall advise the OSC on the duration and extent of Federal response and may recommend to the OSC specific actions to combat the discharge;

(2) Request other Federal, state or local government, or private agencies to consider providing resources under their existing authorities to combat a discharge or monitor response operations;

(3) Help the OSC prepare information releases to the public and for communication with the NRT. Public information is discussed in § 1510.37;

(4) Advise the regional head of the agency providing the OSC if the circumstances or progress of a pollution discharge indicate that a different OSC should be designated; and

(5) Submit Pollution Reports (POLREPS) to the NRC as developments occur and not later than 1600 local time of each day of the operation.

(m) Whenever insufficient national policy guidance exists on a matter before the RRT, or there is a question concerning the interpretation of national guidance, the matter shall be referred to the NRT for resolution. Time permitting, further actions will not be taken on such issues until the NRT has transmitted a position to the OSC and RRT. Should the matter directly affect a State or local government, the RRT representatives of the affected governments may express their position to the NRT.

(n) If any member of the RRT dissents from a decision of the RRT on a discretionary action pursuant to the Plan, or an interpretation of the plan, that member may appeal the decision to the NRT in accordance with § 1510.32(m). The dissenting member shall notify the chair of the NRT of its appeal. During a major pollution discharge, a member who has pursued an appeal to the NRT may request further review by CEQ.

(o) Any State or local government representative who participates in the RRT has the same status as any Federal member of the RRT. Although it is preferable that RRT's reach consensus views, there may be occasions when a vote is necessary. On those occasions, each Federal cabinet level or independent agency, the directly affected State, and the directly affected local government shall be accorded one vote only.

(p) The RRT shall be deactivated by agreement between the EPA and USCC team members. The time of deactivation shall be included in POLREPS.

(q) Boundaries for regional contingency plans shall follow those of the Standard Regions for Federal Administration as shown in Annex III. Boundaries for local contingency plans shall coincide with those agreed upon between EPA and the USCG to determine OSC areas of responsibility and shall be clearly indicated in the regional contingency plan.

§ 1510.35 Regional Response Center.

The RRC is the regional center for pollution response activities. Each regional plan shall specify quarters for the RRC. The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating the response to pollution incidents.

§ 1510.36 On-Scene Coordinator.

(a) The OSC shall direct Federal pollution control efforts and coordinate all other Federal efforts at the scene of a discharge or potential discharge. The OSC shall be predesignated, as part of the planning and preparation for response to pollution incidents, by the regional or district head of the agency responsible for providing the OSC.

(1) The first official from an agency with responsibility under this plan to arrive at the site of a discharge shall coordinate activities under the Plan until the OSC arrives.

(2) The OSC shall collect pertinent facts about discharge, such as potential impacts on human health and welfare; the nature, amount, and location of discharged materials; the probable direction and time of travel of discharged materials, the natural resources, including fish and wildlife and their habitat, and property which may be affected and the priorities for protecting them.

(3) The OSC shall direct Phase II, Phase III and Phase IV operations; that is, Evaluation and Initiation of Action, Containment and Countermeasures; and Removal, Mitigation and Disposal (see Subpart E, §§ 1510.51–55 for descriptive details). Advice provided by the EPA on the use of chemicals in Phase III and Phase IV operations shall be binding on the OSC, except as provided in Annex X of this Plan. Advice provided by the Fish and Wildlife Service (DOI) or by the National Oceanic and Atmospheric Administration (DOC) on cleanup actions that may affect endangered and threatened species or their habitats shall be considered at all times and shall be binding on the OSC unless in his judgment actions contrary to this advice must be taken to protect human life.

(4) The OSC shall provide necessary support and documentation for Phase V activities (Documentation and Cost Recovery).

(5) The OSC will consult regularly with the RRT in carrying out this Plan and will keep the RRT fully informed of all activities under the Plan.

(b) EPA and the USCG shall designate OSCs for all areas in each region. The EPA shall furnish or provide OSCs for inland waters. The USCG shall furnish or provide OSCs for the coastal waters,

and for Great Lakes waters, ports and harbors.

(c) All Federal agencies are required by Executive Order to develop emergency plans and procedures for dealing with oil and hazardous substances spills caused by facilities or vessels under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that will coordinate response actions for spills caused by facilities or vessels under their jurisdiction and for providing means to remove or mitigate such spills in accordance with this Plan and applicable Federal regulations and guidelines. If the responsible Federal agency does not act promptly or take appropriate action, to respond to a spill caused by a facility or vessels under its jurisdiction, the EPA or USCG (depending on the area where the discharge occurs) shall assume the OSC functions.

(d) The OSC is responsible for developing and maintaining a local contingency plan (Federal local plan) for the Federal response in the area of the OSC's responsibility. Designated Federal, State, and local representatives to the RRT shall assist in these efforts. (See § 1510.42.)

§ 1510.37 Public information network.

(a)(1) When a major pollution incident occurs, it is imperative to give the public prompt, accurate information on the nature of the discharge and actions underway to mitigate the damage. Those immediately capable, especially local fire, police and governmental officials, will be contacted first so they may use all available resources to notify the public of a potential threat. Prompt disclosure of the facts helps to encourage cooperation by interested parties and to check the spread of misinformation. National administration policy and the Freedom of Information Act both call for maximum disclosure of information.

(2) If a participating agency believes public interest warrants the issuance of statements or releases and the on-scene or national news offices have not been activated, the affected agency should recommend activation. In the interim, all news releases or statements issued by participating agencies concerning the incidents will be cleared through the OSC.

(b) When the NRT is activated, the Team chairman will contact the most appropriate agency and ask it to detail a professional information officer to establish and direct a national news office. Whenever possible, the director of the national news office shall be provided by the same agency providing the OSC. Requests by the director of the national news office for an appropriate number of professional and clerical assistants will be met by one or more of the participating agencies.

(1) The director of the national news office will be responsible for overall supervision of public information activities of the NRT. The closest possible coordination will be maintained between the national news office in Washington and the on-scene news office.

(2) Promptly after his designation, the director of the national news office will contact the White House Press Office and the Office of Governmental and Public Affairs to arrange whatever information assistance may be required by these offices.

(3) All national news office news releases will be cleared by the chairman of the NRT, or in his absence, the vice-chairman.

(4) The Director of the national news office will have free access to meetings of the NRT and will be consulted on the possible public reaction to the courses of action under consideration by the NRT.

(5) At appropriate intervals, the director of the national news office may arrange news conferences at which the NRT will respond to questions from the media representatives.

(6) The director of the national news office will keep appropriate nationally-based press offices posted on developments. These include the press offices of the secretaries or directors of the participating agencies; Senators and Representatives whose States or districts are affected by the incident.

(7) The national news office will be provided with adequate space, telephones, typewriters, communications equipment and other supplies by the U.S. Coast Guard at U.S. Coast Guard Headquarters, Washington, D.C. The director of the national news office will determine what equipment and supplies are needed to insure an orderly flow of information and to accommodate visiting members of the news media.

(c) An on-scene news office will be established upon the request of any agency participating on the RRT or the OSC to coordinate media relations and issue official Federal information on a pollution incident. The office will be staffed according to regional plans and applicable agency directives. Whenever possible, the on-scene news office will be headed by a representative of the agency providing the OSC. Any participating agency may, by request to the RRT, place a representative on the staff of the news office. The OSC shall determine location of the on-scene news office but every effort should be made to locate it near the scene of the pollution incident.

(1) The director of the on-scene news office shall coordinate all public information activities for the OSC. The director's functions include:

(i) Arranging news conferences for the OSC and other officials to make progress reports and respond to questions;

(ii) Keeping local and regional government officials informed of the pollution situation through contacts with their press offices or other representatives;

(iii) Keeping news media informed about the response effort and giving them as much cooperation as possible, for example, by arranging transportation to the scene of a pollution incident when possible;

(iv) Issuing and distributing daily news releases so long as public interest warrants;

(v) Giving citizens who make inquiries up-to-date information from the latest press release;

(vi) Observing public reaction to the pollution incident and advising the OSC of any actions that might better serve public information interests;

(vii) Handling queries from public and commercial interests properly and promptly;

(viii) Referring salesmen to technical personnel assigned to evaluate their wares;

(ix) Upon request, offering special public information services for official visitors, including notifying the news media of the time, place and purpose of official visits; making press conference arrangements; and arranging for interviews;

(x) Informing the public on the proper way to deal with individual problems and damages from the pollution incident; and

(xi) If necessary, drafting a model letter for participating agencies to use in answering mail inquiries, after the crisis has subsided. The model letter must be approved by the Chairman of the NRT.

(2) It is important for the on-scene news office to describe accurately in news releases each agency's contribution to the response effort, and to make sure that the various agencies assisting the OSC are represented at press conferences.

(3) Each OSC and supporting district or regional office must establish contacts and a working relationship with the regional news media as part of preparation and planning before a pollution incident occurs.

(d)(1) A Public Information Assistance Team (PIAT) shall be available to help OSCs and agenies' regional offices meet the demands for public information during a major pollution incident or threatened incident. Team members will be trained in journalism, public relations, and photography, and will have a knowledge of pollution response techniques, equipment, and the laws and regulations relating to pollution incidents. PIAT will be based at U.S. Coast Guard Headquarters and can be requested through the NRC any time.

(2) If the NRT has not been activated, the PIAT can serve as a center for answering inquiries in Washington, D.C., upon request of the parent agency of the OSC.

Subpart D—Plans

§ 1510.41 Regional contingency plans.

(a) The RRTs shall develop regional contingency plans for each standard Federal region. The purpose of these plans is coordination of a timely, effective response to pollution incidents by various Federal agencies and other organizations. Regional contingency plans must have a broad scope. They must include information on all useful facilities and resources in the region, from government, commercial, academic and other sources. To the greatest extent possible, regional plans will follow the format of the National plan. An example of the desired format is in Annex II.

(b) Each region includes many scientists who can make significant contributions to the response activities of the OSC and RRT. Regional Scientific Support Coordinators (SSCs) shall organize and coordinate these scientists and their contributions to the greatest extent possible. SSCs with advice from RRT members, shall also develop the parts of the regional plan that relate to scientific support.

§ 1510.42 Local contingency plans.

(a) Each OSC if responsible for developing a local contingency plan for the Federal response in his area of responsibility (Federal local plans). The plan should provide for a well-coordinated response that allows integration of or compatibility with pollution response plans of local, State and non-Federal entities. The plan shall identify environmentally sensitive areas, the probable locations for pollution incidents, the kinds of resources required to respond to pollution incidents, where such resources can be obtained, plans of action for protecting vulnerable resources, methods and sites for disposal of recovered oil and hazardous pollutants consistent with local and state plans developed under the Resource Conservation and Recovery Act (42 U.S.C. 6901, *et seq.*), and a local structure for responding to pollution incidents. The Federal local plan shall be developed in concert with and shall be consistent with fire emergency and disaster plans prepared by State and local agencies. To the greatest extent possible, Federal local plans will follow the sample format in Annex II.

(b) While the OSC is responsible for developing Federal local plans, a successful planning effort depends upon the full cooperation of all agency representatives, and includes the development of local capabilities to respond to pollution incidents. Particular attention must be given, during the planning process, to developing a multiagency local response team for coordinating on-scene efforts. The RRT must ensure proper liaison between the OSC and local representatives of RRT members.

A National inventory of pollution response and support equipment (SKIM) has been developed to help OSCs and RRTs gain rapid access to resources during emergencies. This inventory is accessible through the NRC, remote data terminals at Coast Guard Districts and Marine Safety Offices, and Captain of the Port Offices. The inventory shall include privately or commercially owned equipment as well as government resources. Regional and local planners shall ensure that data in the system are current and accuate, so that OSCs can make full use of it during emergencies, with minimal delays in obtaining needed resources. The Coast Guard is responsible for keeping the national inventory up to date with information from the regional offices of Federal agencies.

Subpart E—Operational-Response Phases

§ 1510.51 Phase 1—Discovery and notification.

(a) A discharge or potential discharge may be discovered through: (1) A report submitted by a discharger in accordance with statutory requirements; (2) deliberate search by vessel patrols and aircraft; and (3) random or incidental observation by Government agencies or the public.

(b) A discharge or potential discharge discovered through deliberate search should be reported directly to the NRC. Reports of random discovery may be provided by fishing or pleasure boats, fire and police departments, telephone operators, port authorities, news media, or others. Such reports should be made to the NRC or the nearest USCG or EPA office. (See § 1510.33(e) and Annex III).

Regional and local plans shall provide for all reports to be channeled to the NRC, RRC, and appropriate State agency (as agreed upon with each State) as promptly as possible. Reports of major and medium discharges received by either EPA or USCG shall be expeditiously relayed by telephone to appropriate members of the RRT as specified by the regional contingency plan. Reports of minor discharges shall be exchanged between EPA and USCG as agreed to by the two agencies.

(c) The agency furnishing the OSC for a particular area is responsible for implementing Phase I activities in that area.

§ 1510.52 Phase II—Evaluation and initiation of action.

(a) The OSC shall ensure that a report of a discharge or potential discharge is immediately investigated. On the basis of all available information, the OSC shall: (1) Evaluate the magnitude and severity of the discharge or threat; (2) determine the feasibility of removal; and (3) assess the effectiveness of removal actions.

(b) When appropriate and as soon as possible after receipt of a report, the OSC shall advise the RRC of the need to initiate further Federal response actions. The actions may be no more than activation of the RRT, or a request for additional resources for further surveillance, or they may extend to Phase III or Phase IV containment or removal operations.

(c) The OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, advise the responsible party. If the responsible party does not then take proper actions, or if the discharger is unknown or is otherwise unavailable, the OSC shall, pursuant to § 311(c)(1) of the Act, take whatever actions are necessary to eliminate the threat or remove the pollutant.

§ 1510.53 Phase III—Containment and countermeasures.

Defensive actions should begin as soon as possible after a discharge or potential discharge is discovered. This phase may include actions to protect the public health and welfare such as: analyzing water samples to determine the source and spread of the pollutants; procedures to control the source of discharge; measures to keep waterfowl and other wildlife away from the polluted area; damage control or salvage operations; placement of physical

barriers to deter the spread of a pollutant; use of booms or barriers to protect specific installations or areas; control of the water discharged from upstream impoundments; and the use of chemicals and other materials, in accordance with Annex X, to restrain the spread of the pollutant and mitigate its effects.

§ 1510.54 Phase IV—Cleanup, mitigation and disposal.

(a) Actions should be taken to recover the pollutant from the water and affected shorelines. These actions include: the use of sorbents, skimmers and other collection devices for floating pollutants; the use of vacuum dredges or other devices for sunken pollutants; the use of reaeration or other methods to mitigate damage from dissolved, suspended, or emulsified pollutants; and special treatment techniques to protect public water supplies or fish and wildlife resources from continuing damage.

(b) Pollutants and contaminated materials recovered in cleanup operations shall be disposed of in accordance with regional and local contingency plans (see § 1510.42(a)).

§ 1510.55 Phase V—Documentation and cost recovery.

(a) Documentation and cost recovery may involve a variety of actions, depending on the discharge. Recovery of Federal removal costs and recovery for damage done to Federal, State, or local government property is included. Damages to private citizens (including loss of earnings) are not addressed by this Plan. OSCs shall furnish documentation required by the revolving fund administrator to support Federal efforts to recover costs from responsible parties. Procedures to be followed to fulfill documentation requirements are specified in the Coast Guard directives in the 16450.1 series.

(b) Information and samples needed for legal and scientific purposes shall be collected during this phase. Information and samples are necessary for later identification of financially responsible parties, for scientific understanding of the environment, and for research and development. The samples and information must be gathered at the proper time during the removal operations, because otherwise wind and current may disperse the evidence.

(1) All agencies shall follow uniform procedures, described in Annex VI, for collection of samples and information.

(2) The OSC shall take necessary actions during response phases to ensure necessary collection and safeguarding of information, samples, and reports.

(c) The information and reports obtained by the OSC shall be transmitted to the RRC. Copies will then be forewarded to the NRC, members of the RRT, and others as appropriate.

§ 1510.56 Pollution reports.

(a) Within 60 days after the conclusion of a major pollution discharge and when requested by the RRT, the OSC shall submit to the RRT a complete report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSCs report and submit the report and an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations, based on these experiences, are a source for new procedures and policy.

(c) The format for OSC's reports will be as follows:

(1) *Summary of Events.*—This part is a chronological narrative of all events, including:

(i) The cause of the incident;

(ii) The initial situation;

(iii) The organization of the response; and

(iv) The resources committed.

These sections may be presented separately or included in the narrative. If applicable, the following information will also be included:

(v) The location (water body, State, city, latitude and longitude) of the spill; whether the discharge was in connection with activities regulated under the OCSLA or Deepwater Port Act; or whether it might have or actually did affect natural resources under the exclusive management authority of the United States;

(vi) Details of Federal or State efforts to replace or restore damaged natural resources; and

(vii) Details of any threat abatement actions taken under sections 311(c) or (d) of the Act.

(2) *Effectiveness of Response and Removal Actions.*—This part should candidly and thoroughly analyze the effectiveness of the response and removal actions taken by:

(i) The discharger;

(ii) State and local forces;

(iii) Federal agencies and special forces; and

(iv) (If applicable) contractors, private groups and volunteers.

(3) *Problems Encountered.*—This part should list any problems encountered and describe how they affected the response. Particular attention should be given to any problems of intergovernmental coordination that may have occurred.

(4) *Recommendations.*—This section should include all recommendations of the OSC. An endorsement from the RRT shall be included. At a minimum the following areas should be covered:

(i) Means to prevent a recurrence of the incident;

(ii) Improvement of response actions.

Any recommended changes in the regional or National contingency plans should also be included.

§ 1510.57 Special considerations.

(a) *Safety of personnel.*—Actual or potential polluting discharges threatening damage to air and water can also threaten human health and safety. The OSC should be aware of the hazards, should exercise great caution in allowing civilian or government personnel into the affected area until the nature of the substance discharged is known, and due caution should be exercised thereafter. Local contingency plans shall identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included.

(b) *Waterfowl conservation.*—Oil discharges, particularly in estuarine and near shore areas, often cause severe stress to resident and migratory bird species. The DOI representative and the state liaison to the RRT shall arrange for and coordinate actions of professional and volunteer groups wishing to participate in waterfowl dispersal, collection, cleaning, rehabilitation, and recovery activities. Regional and local contingency plans shall, to the extent practicable, identify organizations or institutions that are willing to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III and Phase IV response actions (§§ 1510.53 and 1510.54 of this subpart).

Subpart F—Coordinating Instructions

§ 1510.60 Delegation of authority.

As provided by Annex X of this Plan, EPA delegation of authority or concurrence in the use of chemical pollution control activities initially may be oral; however, written confirmation by the EPA representative on the RRT

should be completed as soon as possible.

§ 1510.62 Multi-regional actions.

(a) If a discharge or a potential discharge moves from the area covered by one Federal local or regional contingency plan into another area, the authority for pollution control actions shall likewise shift. If a polluting discharge or potential discharge affects areas covered by two or more regional plans, the response mechanism of both plans shall be activated. In this case, pollution control actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There shall be only one OSC at any time during the course of a response operation. Should a discharge affect two or more areas, the EPA and USCG will designate the OSC, giving prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if EPA and USCG members are unable to agree on designation. The NRT shall designate the OSC if members of one RRT or of two adjacent RRTs are unable to agree on the designation.

§ 1510.63 General pattern of response actions.

(a) When the OSC receives a report of a discharge or potential discharge, he should normally take action in the following sequence:

(1) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, the type and quantity of material discharged, and the source of the discharge.

(2) Notify RRT members and the Scientific Support Coordinator, in accordance with the applicable regional plan.

(3) Determine, in accordance with section 311(c)(1) of the Act, whether the discharger (that is, the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs) is properly carrying out removal actions. Removal is being done properly when:

(i) The discharger's cleanup is fully sufficient to minimize or mitigate damage to the public welfare. The discharger's removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage; and

(ii) The discharger's removal efforts are in accordance with applicable regulations and guidelines, including this Plan, especially Annex X.

(4) Officially classify the severity of the discharge and determine the course of action to be followed.

(5) Determine whether state action to effect removal is necessary within the meaning of section 311(c)(2)(H) of the Act (See § 1510.65(h)).

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that the initial information overstated the magnitude or danger of the discharge and no environmental pollution or potential pollution is involved, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the discharger taking appropriate removal action, contact should be established with the discharger. The removal action should be monitored to insure continued proper action by the discharger.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken:

(i) An immediate effort should be made to prevent further discharges from the source.

(ii) The discharger shall be advised of the proper action to be taken.

(iii) If the discharger does not follow this advice, warning of the discharger's liability for the cost of removal, pursuant to § 311(f) of the Act, shall be given.

(iv) The OSC shall notify appropriate state and local officials. He shall keep the RRC advised and initiate Phase III and IV operations as conditions warrant.

(v) Information shall be collected for possible recovery of removal costs when removal is effected in accordance with § 1510.55.

(4) When a report of investigation indicates that a medium discharge has occurred, or the potential for a medium discharge exists, the OSC shall follow the same general procedures as for a minor discharge. Additionally, the OSC shall make a recommendation concerning team activation to the chairman of the RRT.

(5) When a report indicates that a major discharge has occurred, a potential major pollution emergency exists, or that a discharge or potential discharge which could arouse wide public concern has occurred, the OSC shall follow the same procedures as for minor and medium discharges. The RRC and NRC shall, however, be notified immediately of the situation even if the initial report has not been confirmed.

§ 1510.64 Special forces available to the OSC.

(a) The National Strike Force consists of the Strike Teams established by USCG on the East, West and Gulf Coasts and includes the emergency task forces to provide assistance to the OSC during Phase II, IV, and V operations as the circumstances of the situation dictate. When possible, the Strike Teams will provide training to the emergency task forces and participate with the RRT in regional and local contingency plan development.

(1) The Strike Teams can provide communications support, advice, and assistance for oil and hazardous substances removal. These teams also have knowledge of ship salvage, damage control, diving and removal techniques. Additionally, they are equipped with specialized containment and removal equipment, and have rapid transportation available.

(2) Emergency task forces, established by the USCG at major ports pursuant to section 311(c)(2)(C) of the Act, consist of trained personnel with supplies of oil and hazardous substances pollution control equipment and materials, and detailed discharge removal plans for their areas of responsibility.

(3) The Strike Teams will respond to requests for assistance from the OSC. Requests for a team may be made directly to the Commanding Officer of the appropriate team, the Coast Guard member of the RRT, the appropriate area commander, USCG, or to the Commandant, USCG through the NRC. Emergency task forces work directly for the OSC and are accessible through those offices.

(b)(1) The Environmental Response Team (ERT) is established by EPA in accordance with its disaster and emergency responsibilities. The ERT includes expertise in biology, chemistry and engineering. It can provide access to special decontamination equipment for chemical spills and advice to the OSC on:

(i) Cleanup techniques and priorities;

(ii) Water supply contamination and protection;

(iii) Application of dispersants;

(iv) Habitat restoration; and

(v) Disposal of contaminated material.

The ERT will be especially useful to the OSC in hazardous substances spill response and in damage assessment for all spills.

(2) The OSC or RRT requests for ERT support should be made to the EPA representative on the RRT, the EPA Headquarters emergency coordinator or the appropriate EPA regional emergency coordinator.

(c)(1) Scientific support is organized by EPA and NOAA, with assistance from DOI, to support the OSC by providing scientific assistance including: oceanography, chemistry, location of environmentally sensitive areas, assessment of environmental damage and coordination of on-scene scientific activity. Generally, the Scientific Support Coordinator (SSC) for coastal oil spills will be provided by NOAA and those for inland spills will be provided by EPA. This delineation of responsibility may be modified within a region by agreement between DOC, DOI and EPA representatives to the RRT.

(2) Scientific support coordinators serve as advisors to the RRT and OSC in planning and on the OSC staff during major spill response operations.

(i) In planning, the SSC works with the RRT to identify vulnerable resources within the region and to establish and maintain a scientific support structure within the region. The structure should be adequate to provide the OSC with well qualified scientific assistance. Specific responsibilities of the SSC in planning are:

(aa) Establish contact with the scientific community within the region, including State, local, university, industry and others, to determine the existing capability to perform damage assessment that may be necessary in support of the OSC. In those regions whose states have well developed scientific organizations, they should be employed to support the OSC.

(bb) Organize the development of those portions of regional and local contingency plans that deal with scientific support to the OSC and the responsibilities of agencies that must perform damage assessment of pollution incidents. The SSC shall advise each OSC of scientists who can provide scientific advice in assessing effects of spills in localized areas.

(cc) Identify, in cooperation with the region's scientific community, research (basic or applied, data gathering, processing, etc.) required to support the OSC in mitigating the effects of spills and improve the existing capability to support damage assessment.

(ii) When requested by the OSC, the SSC will function as a member of the OSC's staff. In that capacity, the SSC functions as the liaison between the scientific community and the OSC. The extent and nature of SSC involvement in the operational mode shall be determined by the OSC. In order to provide an orderly and intelligible flow of information to the OSC, act as a mediator among differing scientific opinions, and advise the OSC on use by scientific personnel of limited common resources such as aircraft and vessels, the SSC shall:

(aa) Coordinate response from scientific to OSC requests for assistance and to requests from RRT agencies for performance of damage assessment investigations; coordinate responses and requests from scientists interested in performing research on spills.

(bb) Serve as the principal liaison for scientific advice from the scientific community to the OSC. The SSC shall ensure that differing scientific views within the scientific community are communicated to the OSC in timely manner.

(3) The SSC will respond to requests for assistance from the OSC or from the chairman of the appropriate RRT. Details on provision of the access to scientific support shall be included in regional contingency plans.

(d) The activation or involvement of any special forces shall not relieve the OSC of any responsibilities for notification and activation of any member agency of the RRT concerning a pollution incident. The activation and involvement of any special forces will not replace or impede the response actions of any RRT agencies in carrying out responsibilities outlined in § 1510.22, or in providing advice or assistance to the OSC or RRT relative to a pollution incident.

§ 1510.65 Funding.

(a) If the person responsible for the discharge or threat of discharge does not act promptly, or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the Act. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the Act.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities insofar as practicable. This Plan intends that Federal agencies will make resources available, expend funds, or participate in response to pollution incidents under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through cross-servicing agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a pollution incident. The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

(c) A pollution revolving fund, administered by the Commandant, USCG, has been established pursuant to section 311(k) of the Act. Regulations governing the administration and use of the fund are contained in 33 CFR Part 153. The OSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the fund is appropriate.

(d) Funding of response actions other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.

(e) The funding of removal actions necessitated by a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions:

(1) The EPA can provide funds to begin timely discharge removal actions when the OSC is an EPA representative. Because EPA does not have funds authorized for this purpose, operating program funds may be used to initiate Phase III and IV activities; funding of continuing Phase III and IV actions, however, shall be determined on a case-by-case basis by the Oil and Special Materials Control Division at EPA.

(2) The USCG pollution control efforts are funded under "operating expenses." These funds are used in accordance with agency directives and applicable regional plans.

(3) The Department of Defense has two specific sources of funds which may be applicable to a pollution incident under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Functions Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy has funds available on a reimbursable basis to conduct salvage operations.

(g) Certain emergency response activities under this plan may qualify for reimbursement as disaster relief functions. In making a declaration of a "major disaster" or a determination that an "emergency" exists, the President may allocate funds from his Disaster Relief Fund, managed by the Director, Federal Emergency Management Agency. The Director may then authorize certain reimbursements to Federal agencies for assistance provided under direction of his office. (See Title

24, CFR Chapter XIII, Part 2201, "Reimbursement of Other Federal Agencies under Pub. L. 91-606 (For use under Pub. L. 93-288 until revised).) The Director, FEMA, may also make financial assistance available to state governments and, through the states, to local governments (See Title 24, CFR Chapter XIII, Part 2205, "Federal Disaster Assistance").

(h) Pursuant to section 311(c)(2)(H) of the Act, the State or States affected by a discharge of oil or hazardous substances may act where necessary to remove such discharge and may, pursuant to 33 CFR Part 153, be reimbursed from the pollution revolving fund for the reasonable costs incurred in such removal.

(1) Removal by a state is necessary within the meaning of section 311(c)(2)(H) of the Act when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs cannot effect removal properly and that:

(i) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or mitigate, or

(ii) Remove or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(2) State removal actions must be in compliance with Annex X of this Plan in order to qualify for reimbursement.

(3) State removal actions are considered to be Phase III or Phase IV actions, under the same definitions applicable to Federal agencies.

(4) Actions taken by local government in support of Federal discharge removal operations are considered to be actions of the State for purpose of this section.

(i) Regional and local contingency plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

Annex I—1100 Distribution

1101 Plan Distribution

1101.1 This Plan will be distributed to designated offices of participating Agencies, state and interstate water pollution control agencies and such other Federal, state, local and private agencies and organizations which are cooperating with and participating in activities in support of the Plan.

1101.2 Included in this formal distribution are the following:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health, Education and Welfare
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Environmental Protection Agency
Federal Emergency Management Agency
All state representatives to regional response teams
All state water pollution control agencies
All interstate water pollution control agencies
Other Federal, state, local and private agencies and organizations, as appropriate

1101.3 Formal distribution of the Plan and amendments will be made by the Environmental Protection Agency.

1102 Amendment, Distribution and Format

1102.1 Amendments to the Plan and annexes will be made by sequentially numbered changes. Numbered changes will be effected by means of a transmittal sheet which identifies the Plan, the change number and date, the page numbers affected by the change and any other instructions deemed necessary for purpose of clarity or to make special emphasis or explanation of the change. There will be attached to the transmittal sheet the revised or added pages with the change number and current date on each page at the upper right hand corner.

1102.2 Where a change can be effected merely by pen and ink, the transmittal sheet may be used to accomplish the change without submission of revised pages. The use of pen and ink changes is limited to those cases where existing matter is being deleted or is of minor extent.

1102.3 Asterisks will be used to indicate changes. For line changes, an asterisk will be placed before and after each sentence change in the left and right page margins. For paragraph changes, an asterisk will be placed before and after each paragraph changed and if continued on the next page, an asterisk will be placed at the top of the page and the end of the paragraph. For a paragraph deletion, as asterisk will be placed in the left margin and the paragraph number or letter will be retained in the original sequence followed by the word "Rescinded" in parentheses.

1102.4 If the Plan is completely rewritten, asterisks will not be used supersession will be indicated at the bottom of the first page.

Annex II—Formats for Regional and Local Contingency Plans

Regional Contingency Plan

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1300 Geographical Boundaries

Regional contingency plans shall be based upon the Standard Federal Regions. Local plans shall be based upon the subregional area, for which each OSC is responsible for responding to pollution incidents. These plans are available for inspection at EPA regional offices or USCG district offices as shown in 1301 and 1302. Other agencies' addresses and telephone numbers may be found in the United States Government Manual (issued annually) or in the local telephone directories.

1301 Environmental Protection Agency—Office addresses, telephone numbers, and map.

1302 Department of Transportation—United States Coast Guard district offices addresses, telephone numbers, and map.

Environmental Protection Agency, Region I Room 2303, John F. Kennedy Federal Bldg., Boston, MA 02203, Tel: (617) 223–7265.
Environmental Protection Agency, Region II, Room 908, 26 Federal Plaza, New York, NY 10007, Tel: (201) 548–8730.
Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Tel: (215) 597–9898.
Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, GA 30308, Tel: (404) 881–4062.
Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, IL 60605, Tel: (312) 353–2318.
Environmental Protection Agency, Region VI, 1201 Elm Street, First International Bldg., Dallas, TX 75270, Tel: (214) 749–3840.
Environmental Protection Agency, Region VII, 1735 Baltimore Street, Kansas City, MO 64108, Tel: (816) 374–3778.
Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, CO 80295, Tel: (303) 837–3880.
Environmental Protection Agency, Region IX, 215 Freemont Street, San Francisco, CA 80295, Tel: (303) 837–3880.
Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101, Tel: (206) 442–1200.

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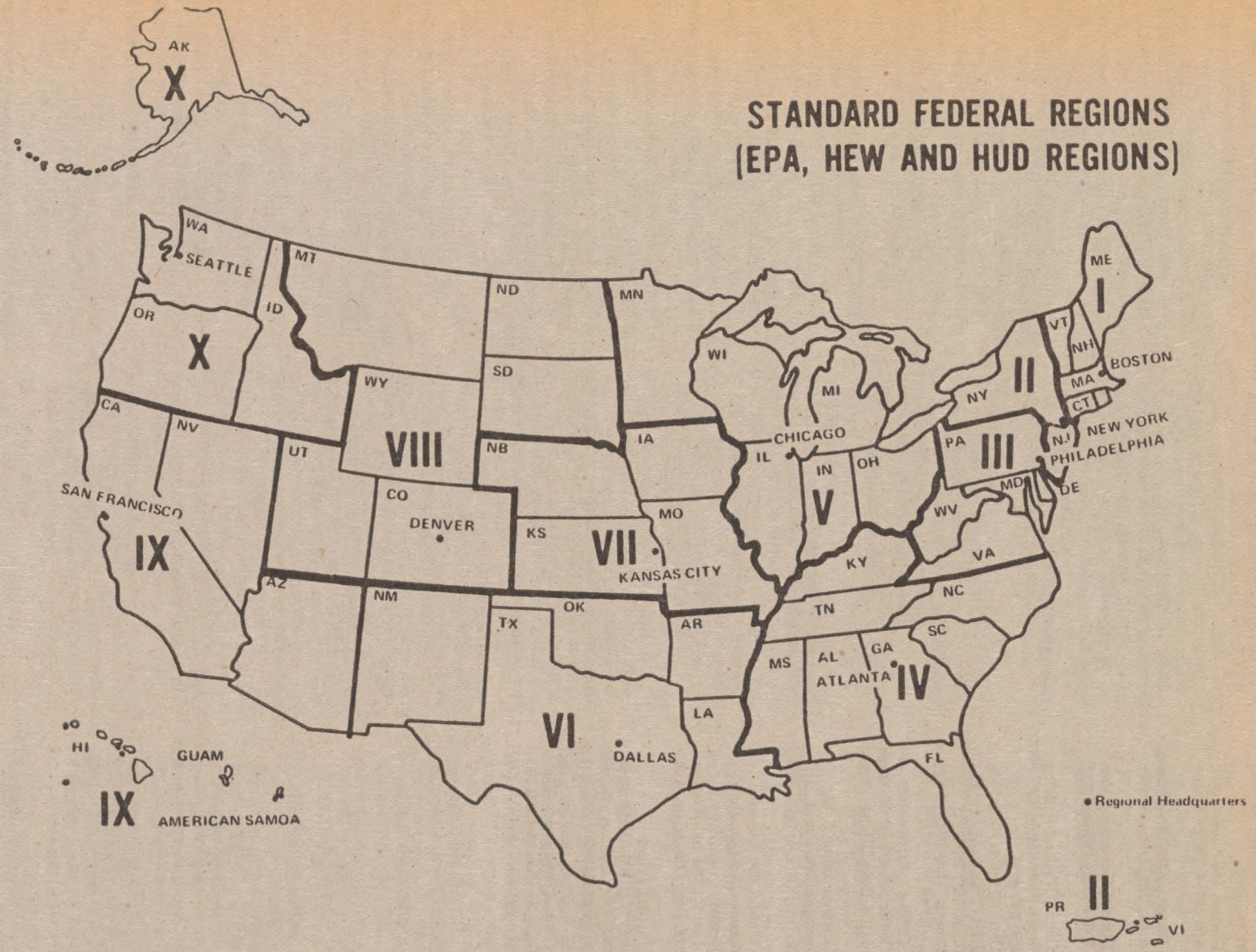

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1302 Department of Transportation, U.S. Coast Guard Districts

1st Coast Guard District, 150 Causeway Street, Boston, MA 02114, Duty Officer: (617) 223–3645.

2nd Coast Guard District, 1430 Olive Street, St. Louis, MO 63101, Duty Officer: (314) 425–4614.

3rd Coast Guard District, Governors Island, New York, NY 10004, Duty Officer: (212) 668–7055.

5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705, Duty Officer: (804) 398–6231.

7th Coast Guard District, Room 1018, Federal Building, 51 SW 1st Avenue, Miami, FL 33130, Duty Officer: (305) 350–5611.

8th Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Duty Officer: (504) 589–6225.

9th Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199, Duty Officer: (216) 293–3984.

11th Coast Guard District, Union Bank Building, 400 Oceangate Boulevard, Long Beach, CA 90822, Duty Officer: (213) 590–2225.

12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126, Duty Officer: (415) 556–5500.

13th Coast Guard District, 915 2nd Avenue, Seattle, WA 98174, Duty Officer: (206) 442–5886.

14th Coast Guard District, Prince Kalanianaole Fed. Bldg., 300 Ala Moana, Honolulu, HI 96850, Duty Officer: (808) 546–7109 (commercial only), AUTOVON—(315) 430–0111.

17th Coast Guard District, P.O. Box 3–5000, Juneau, AK 99802, Duty Officer: (907) 586–7340 (commercial only), AUTOVON—(317) 388–7340.

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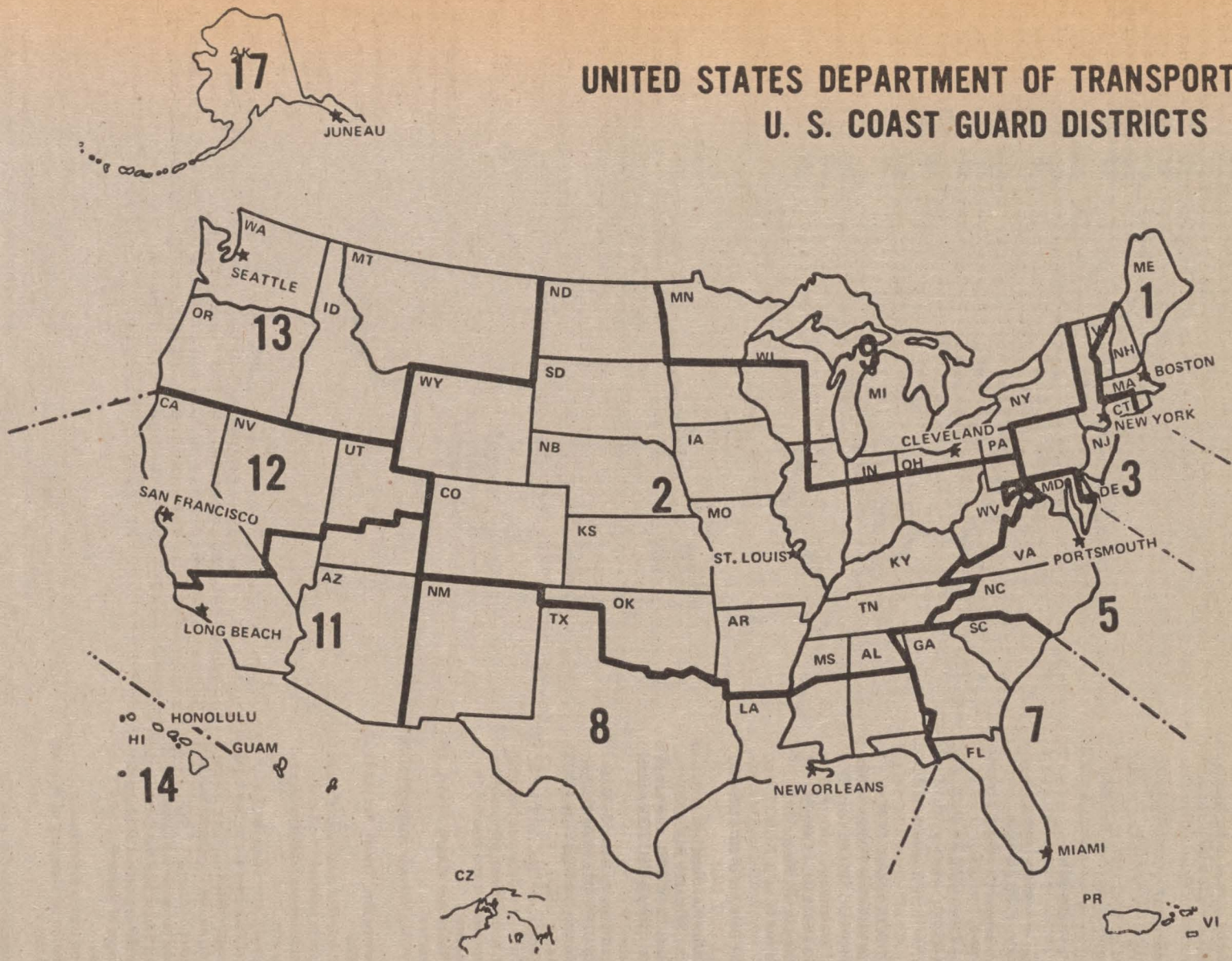
UNITED STATES DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD DISTRICTS



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Annex IV

1400 Legal Authorities.

1400.1 Federal statutes relative to control of pollution by oil and hazardous substances are administered by several departments and agencies. The following is a tabular summary of the most important of these authorities:

Statute and Agency(ies)

1411 Federal Water Pollution Control Act, as amended (33 USC 1251, et. seq.), EPA, USCG, CORPS, Justice

1412 Safe Drinking Water Act amendment to the Public Health Service Act (42 USC 201); EPA

1413 Refuse Act of 1899 (33 USC 407; 411); CORPS, USCG, Customs, Justice

1414 Toxic Substances Control Act, 1976 (42 USC 2601); EPA

1415 Resources Conservation and Recovery Act of 1976 (42 USC 6901); EPA

1416 Marine Protection, Research and Sanctuaries Act of 1976 (33 USC 1401 et. seq.); EPA, USCG, NOAA, CORPS

1417 Hazardous Materials Transportation Act of 1974 (49 USC 1801 et. seq.); DOT

1418 Ports and Waterways Safety Act as amended (33 USC 1221, et. seq.); USCG

1419 Federal Insecticide, Fungicide and Rodenticide Act of 1972 (7 USC 121 et. seq.); EPA

1420 Deepwater Port Act of 1974 (33 USC 1501 et. seq.); DOT, DOI

1421 Outer Continental Shelf Lands Act, as amended (43 USC 1331); DOI, DOT

1422 Oil Pollution Act of 1961, as amended (33 USC 1001–1001.5); USCG, Customs, CORPS, State

1423 Endangered Species Act of 1973, as amended (16 USC 1531); FWS, NOAA

1424 Intervention on the High Seas Act (33 USC 1471–1487); USCG

1430 Related Federal statues, not specific to oil and hazardous substances pollution control, but, nonetheless, applicable to discharge prevention and cleanup in certain cases are:

1431 Disaster Relief Act of 1974; FEMA, All Federal agencies

1432 U.S. Navy Ship Salvage Authority; U.S. Navy

1433 The Migratory Bird Treaty Act (16 USC 701–718); FWS

1440 Important International Conventions and Agreements relative to oil and hazardous substances pollution control and liability are:

1441 International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and amendments

1442 Convention on the Territorial Sea and the Contiguous Zone

1443 Convention between the Government of the United States and the Government of Japan for the Protection of Migratory Birds in Danger of Extinction, and Their Environment

1444 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

Annex V.—Communication Services Available in National Response Center

1501 Telephone (voice) services available include:

1501.1 Commercial telephone available 24 hours per day, free (800) 424–8802 (or 426–2675 in the Washington, D.C. local calling area);

1501.2 AUTOVON (Automated Voice Network)—General purpose switched voice network of Defense Communications Systems, which serves Continental U.S., Alaska, Europe, Pacific, and Panama;

1501.3 Washington Tactical Switchboard—Pentagon terminal of the tactical telephone system, operated by USAF;

1501.4. FTS—GSA operated government administrative telephone system; and

1501.5 SARTEL—Search and Rescue Command Coordination telephone network including leased Hotline telephone net extending from Halifax to New Orleans.

1502 *Teletypewriter services available include:*

1502.1 AUTODIN—A worldwide high speed user data communications system operated for and managed by the DCA to provide both direct user-to-user and store and forward message switching service for DOD and other government agencies;

1502.2 SARLANT—Coast Guard-leased teletypewriter system extending from Massachusetts to Texas (used to control and coordinate search and rescue incidents and to handle other operational traffic and priority administrative communications);

1502.3 SARPAC—Same as 2.2 for the West Coast U.S.; and

1502.4 TELEX—Teletypewriter exchange service provided by Western Union that serves Continental U.S., industry and government offices. TELEX also permits direct connections.

Annex VI.—Sample Collection Procedures

1601 Sample collection procedures to be followed by OSC:

1601.1 Several precautions must be observed when taking and handling liquid samples for analyses as the character of the sample may be affected by a number of common conditions. These precautions concern the following: (a) The composition of the container; (b) cleanliness of the container; and, (c) manner in which the sample is taken.

1601.2 In taking such samples, the following procedures are to be followed in all cases:

1601.2–1 Glass or other appropriate containers of suitable size shall be used. The portion of the closure (sealing gasket or cap liner) which may come into contact with the sample in the container is of considerable importance. When oil or petroleum hydrocarbons are to be sampled, the closure should be made of glass, aluminum foil, or teflon. Pollutants other than oil may require special precautions such as jacketing of glass containers or different closure material. The analysis laboratory should be consulted whenever a question arises to the appropriateness of any packaging material.

1601.2–2 Previously unused containers are preferred. Containers that have been cleaned with a strong detergent, thoroughly rinsed, and dried may be used.

1601.2–3 Some explanatory notes governing the above procedures are as follows: (a) Glass or other appropriate containers always must be used because plastic containers, with the exception of teflon, have been found in some cases to absorb organic materials from water and, in other cases, compounds have been dissolved from plastic containers; (b) as it is desirable to take a large sample of the pollutant, proper skimming techniques should be used to obtain a sufficient amount of oil for analysis; and (c) because pollution conditions change rapidly, samples should be taken promptly, and the time sequences and locations noted.

1601.2–4 Consult with the analysis laboratory personnel relative to special samples and unusual problems.

1601.2–5 Samples collected are to be transmitted for analysis, using special courier or registered mail (return receipt requested). Appropriate analytical laboratories are designated in the regional plan. Reports of laboratory analysis will be forwarded to the appropriate RRT for transmittal to counsel.

Annex VII.—1700 Technical Information

1701 Technical Library

1701.1 A technical library of pertinent pollution control documents will be maintained in the NRC and in each RRC. Such information should be useful as reference information to the experienced OSC and instructional to less experienced personnel.

1702 Specific References

1702.1 As a minimum, the following reference documents will be maintained in the NRC and in each RRC technical library.

1702.1–1 Current National Oil and Hazardous Substances Pollution Contingency Plan.

1702.1–2 Current Regional and State Oil and Hazardous Substances Pollution Contingency Plan.

1702.1–3 Current Directory of the American Council of Independent Laboratories.

1702.1–4 Encyclopedia of Chemical Technology, 22 Vol., Kirkothmer, 2nd edition c1963–1971, John Wiley & Sons, New York, New York.

1702.1–5 Chemical Data Guide for Bulk Shipment by Water (U.S. Coast Guard CG–388)

1702.1–6 U.S. Army Corps of Engineers' Regulations ER 500–1–1 and ER 500–1–8 Emergency Employment of Army Resources (Natural Disaster Activities).

1702.1–7 Federal Disaster Assistance Program-Handbook for Applicants FDAA 3300.1, July 1973.

1702.1–8 Federal Disaster Assistance Program-Eligibility Handbook 3300.2, July 1973.

1702.1–9 Federal Disaster Assistance Program-Handbook for State and Federal Officials 3000.4, December 1973.

1702.1–10 Handbook of Toxicology (National Academy of Sciences/National Resource Council).

1702.1–11 46 CFR–146. Transportation or Storage of Explosives or Other Dangerous Articles or Substances, and Combustible Liquids on Board Vessels.

1702.1–12 33 CFR, 3, 5, 121, 122, 124–6. Security of Vessels and Waterfront Facilities (USCG CG 239).

1702.1–13 33 and 40 CFR parts implementing section 311 of the Federal Water Pollution Control Act, as amended.

1702.2 In addition to the library specified above, the RRC should have provision, either in publications or by computer terminal, for access to the EPA Technical Assistance Data System, (TADS) and the USCG Chemical Hazard Response Information System (CHRIS).

Annex VIII Definitions of Terms

1801 API gravity. An empirical scale for measuring the density of liquid petroleum products, the unit being called the "degree API".

1802 Ash. Inorganic residue remaining after ignition of combustible substances determined by definite prescribed methods.

1803 Asphalts. Black, solid or semi-solid, bitumens which occur in nature or are produced as residues during petroleum refining.

1804 Bilge oil. Waste oil which accumulates, usually in small quantities, in the lower spaces in a ship, just inside the hull plating. Usually mixed with larger quantities of water.

1805 Blowout. A sudden, violent escape of gas and oil from an oil well when high pressure gas is encountered and preventive measures have failed.

1806 Boiling point. The temperature at which the vapor pressure of a liquid is equal to atmospheric pressure.

1807 Bunker "C" oil. General term used to indicate a heavy viscous fuel oil.

1808 Bunker fuel. General term for heavy oils used as fuel on ships and in industry. It often refers to No. 5 and 6 fuel oils.

1809 Bunkering. The process of loading fuel aboard ship.

1810 Conversion tables. (Approximate Conversions).

Materials:	*Barrel per ton (long)*
Crude oils	6.7–8.1
Aviation gasolines	8.3–9.2
Motor gasolines	8.2–9.1
Kerosenes	7.7–8.3
Gas oils	7.2–7.9
Diesel oils	7.0–7.9
Lubricating oils	6.8–7.6
Fuel oils	6.6–7.0
Asphalt bitumens	5.9–6.5

(As a general rule-of-thumb, use 6.5 barrels or 250 gallons per ton of oil.)

1811 Crude oil. Petroleum as it comes from the earth. There may be several thousands of different substances in crude oil, some of which evaporate quickly while others persist indefinitely. The physical characteristics of crude oils may vary widely. Crude oils are often identified in trade jargon by their regions of origin. This identification may not relate to the apparent physical characteristics of the oil. Commercial gasoline, kerosene, heating oils, diesel oils, lubricating oils, waxes, and asphalts are all obtained by refining crude oil.

1812 Demulsibility. The resistance of an oil to emulsification, or the ability of an oil to separate from any water with which it is mixed. The better the demulsibility rating, the more quickly the oil separates from water.

1813 Density. Density is the term meaning the mass of a unit volume. Its numerical expression varies with the units selected.

1814 Emulsion. A mechanical mixture of liquids which do not naturally mix as oil and water. Water-in-oil emulsions have the water as the internal phase and oil as the external phase. Oil in water emulsions have oil as the internal phase.

1815 Fire point. The lowest temperature at which an oil vaporizes rapidly enough to burn for at least *5 seconds* after ignition, under standard conditions.

1816 Flash point. The lowest temperature at which an oil gives off sufficient vapor to form a mixture which will ignite, under standard conditions.

1817 Fraction. Refinery term for a product of fractional distillation having a restricted boiling range.

1818 Fuel oil grade. Numerical ratings ranging from 1 to 6. The lower the grade number, the thinner the oil is and the more easily it evaporates. A high number indicates a relatively thick, heavy oil. Number 1 and Number 2 fuel oils are usually used in domestic heaters, and the others are used by industry and ships. Number 5 and Number 6 oils are semi-solids that must be liquified by heating. Kerosene, coal oil, and range oil are all Number 1 oil. Number 3 is no longer used as a standard term for fuel oil.

1819 Innage. Space occupied in a product container.

1820 In personem. An action in personem is instituted against an individual, usually through the personal service of process, and may result in the imposition of liability directly upon the person of a defendant.

1821 In rem. An action in which the vessel or thing itself is treated as the offender and made defendant without any proceeding against the owners or even mentioning their names. The decree in an action in rem is enforced directly against the condemnation and sale thereof.

1822 Load On Top (LOT). A procedure for ballasting and cleaning unloaded tankers without discharging oil. Half of the tanks are first filled with seawater while the others are cleaned by hosing. Then oil from the cleaned tanks, along with oil which has separated out in the full tanks, is pumped into a single slop tank. The clean water in the full tanks is then discharged while the freshly-cleaned tanks are filled with seawater. Ballast is thus constantly maintained.

1823 Oil films. A slick thinner than .0001 inch and may be classified as follows:

Standard term	Gallons of oil per square mile	Appearance
"Barely visible"	25	Barely visible under most favorable light conditions.
"Silvery"	50	Visible as a silvery sheen on surface water.
"Slightly colored"	100	First trace of color may be observed.
"Brightly colored"	200	Bright bands of color are visible.

1833 Tonnage. There are various tonnages applied to merchant ships. The one commonly implied is gross tonnage although in these days tankers and other bulk-carriers are often referred to in terms of deadweight.

1833.1 Gross tonnage. 100 cubic feet of permanently enclosed space is equal to one gross ton—nothing whatever to do with weight. This is usually the registered tonnage although it may vary somewhat according to the classifying authority or nationality.

1833.2 Net tonnage. The earning capacity of a ship. The gross tonnage after deduction of certain spaces, such as engine and boiler rooms, crew accommodations, stores, equipment, etc. Port and harbor dues are based on this tonnage.

1833.3 Displacement tonnage. The actual weight in tons, varying according to whether a vessel is in light or loaded condition. Warships are always spoken of by this form of measurement.

1833.4 Deadweight tonnage. The actual weight in tons of cargo, stores, etc., required to bring a vessel down to her load line, from the light condition. Cargo deadweight is, as its name implies, the actual weight in tons of the cargo when loaded, as distinct from stores, ballast, etc.

1834 Ullage. The amount by which a tank or vessel lacks being filled. (See also Outage).

1835 Viscosity. The property of liquids which causes them to resist instantaneous change of shape, or instantaneous rearrangement of their parts, due to internal friction. The resistance which the particles of a liquid offer to a force tending to move them in relation to each other. Viscosity of oils is usually expressed as the number of seconds at a definite temperature required for a standard quantity of oil to flow through a standard apparatus.

1836 Viscous. Thick, resistance to flow, having a high viscosity.

1837 Volatile. Evaporates easily.

Annex X—Schedule of Chemical and Other Additives to Remove Oil and Hazardous Substances Discharges

2001 General

2001.1 This Schedule has been prepared by the U.S. Environmental Protection Agency pursuant to section 1(2) of Executive Order 11735. This Schedule applies to the waters of the United States and adjoining shorelines, the waters of the Contiguous Zone, and the high seas beyond the Contiguous Zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

2001.2 This Schedule applies to the use of any chemicals or other additives as hereinafter defined that may be used to remove oil and remove or neutralize hazardous substances discharges. Any chemical agent or other substance not specifically defined in this schedule will be considered by EPA on a case-by-case basis for use in the removal of oil and hazardous substances discharges.

2001.3 This Schedule favors development and utilization of sorbents, skimmers, booms and other mechanical control methods to remove or mitigate oil and remove, mitigate, or neutralize hazardous substances discharges from the environment with subsequent proper disposal.

2001.4 It is the intent of this Schedule that the use of chemicals and additives to remove or mitigate the effects of oil or hazardous substances discharges shall cause the least overall environmental impact.

2001.5 In implementing this Schedule and in maintaining its relationship with other Federal and State agencies, EPA shall recognize that some States may have more stringent laws, regulations or written policies regulating the use of chemicals in the removal of oil and hazardous substance discharges, in which case such laws, regulations or policies shall govern.

2001.6 It has been determined that because of the overriding need for prompt initiation of discharge removal actions no formal permit, as provided for by Sec. 402 of the Act, shall be required before application of chemicals to mitigate the effects of a discharge. The provisions of Sec. 1510.21(f) and 1510.36(a)(3) of this Plan shall apply.

2002 Definitions

Materials applied to oil or floating hazardous substances discharges are defined as follows:

2002.1 Chemical agents are those elements, compounds, or mixtures that disperse, dissolve, emulsify, neutralize, precipitate, reduce, solubilize, oxidize, concentrate, congeal, entrap, fix, gell, make the pollutant mass more rigid or viscous, or otherwise facilitate the mitigation of deleterious effects or removal of the pollutant from the water.

2002.2 Dispersing Agents are those chemical agents which emulsify, disperse, or solubilize oil into the water column or act to further the surface spreading of oil slicks in order to facilitate dispersal of the oil into the water column.

2002.3 Surface Collecting Agents are those chemical agents which are a surface film forming chemical for controlling oil layer thickness.

2002.4 Biological Additives are microbiological cultures, enzymes, or nutrient additives that are deliberately introduced into an oil or hazardous substance spill for the specific purpose of encouraging biodegradation to mitigate the effects of a spill.

2002.5 Burning Agents are those materials which, through physical or chemical means, improve the combustibility of the materials to which they are applied.

2002.6 Sinking Agents are those materials which are applied to oil and hazardous substance spills to sink floating pollutants below the water surface.

2002.7 Mechanical removal methods include the use of pumps, skimmers, booms, earthmoving equipment, and other mechanical devices.

2002.8 Sorbents are essentially inert and insoluble materials which are used to remove oil and hazardous substances from water through a variety of sorption mechanisms. Examples include: straw, expanded perlite, polyurethane foams, reclaimed paper fibers, peat moss.

2003 Dispersing Agent Program for Spills of Oil and Applicable Hazardous Substances

2003.1 Authorization for Use of Dispersing Agents

2003.1–1 Major and medium discharges. Dispersing agents may be used in any place, at any time, and in quantities designated by the OSC when their use will:

2003.1–1.1 In the judgment of the OSC, prevent or substantially reduce hazard to human life.

2003.1–1.2 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State or Federal agencies, prevent or reduce substantial hazard to a major segment of the population(s) of vulnerable species of waterfowl; or,

2003.1–1.3 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State and Federal agencies, result in the least overall environmental damage, or interference with designated water uses.

2003.1–2 Minor discharge. The provisions of section 2003.1–1 shall apply.

2003.2 Special Restrictions on Dispersing Agent Use:

2003.3.2–1 Chemical agents shall not be considered for use as dispersing agents unless technical product data have been provided and accepted in accordance with 2003.3 except when the judgment of the OSC the hazards discussed in 2003.1–1.1 are so imminent that the time delay for obtaining a dispersant agent that is in compliance with 2003.3 would be excessive.

2003.2–2 Federal officials responsible for oil and hazardous substance spill response activities at all levels shall develop effective programs to insure that dispersants that are available for use in appropriate spill response actions are dispersants with adequate technical data on file with EPA. This effort will help preclude the avoidance of the EPA technical data program by manufacturers or suppliers who might wish to take advantage of the emergency conditions provision of 2003.2–1.

2003.2–3 For all situations where dispersants are used, accurate records shall be kept on dispersant types, brands, application rates and methods, effectiveness, environmental impacts, plus any other pertinent observations.

2003.3 Technical Product Data For Dispersing Agents

2003.3–1 Technical product data as outlined in 2003.3–4 on the physical, chemical and toxicity characteristics of a dispersing agent shall be submitted to the Oil and Special Materials Control Division (WH–548), Environmental Protection Agency, Washington, D.C. 20460, at least 60 days prior to the use of the agent. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data provided. If additional information is requested or EPA desires to perform tests, the dispersing agent may not be considered for use until the additional needs have been satisfied and the submitter so notified.

2003.3–2 Information furnished in accordance with 2003.3–4 shall be maintained on file by the Environmental Protection Agency, Oil and Special Materials Control Division, (WH–548) Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use and dosage rates for dispersing agents. Any changes in the composition or formulation of the dispersing agent that will affect any of the data being requested in 2003.3–4 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised dispersing agent.

2003.3–3 The acceptance and maintenance of product data by EPA does not constitute approval of the dispersing agent nor does it imply compliance with any EPA criterial or minimum standards for such agents. The OSC will determine which dispersing agent may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of the EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2003.3–4 in any advertisements or technical literature on the dispersing agent. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the dispersing agent for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files, which would preclude use of the dispersing agent except as noted in 2003.2–3 for imminent hazards.

2003.3–4 Required Technical Product Data

2003.3–4.1 Name, brand, or trademark, if any, under which the chemical agent is sold.

2003.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2003.3–4.3 Name, address and telephone number of primary distributers or sales outlets.

2003.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures to include optimum ranges as well as temperatures that will cause phase separations, chemical changes or otherwise damage effectiveness of the chemical agent.

2003.3–4.5 Shelf Life.

2003.3–4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2003.3–4.7 Dispersant Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2–73–201, May 1973) pages 22–34. This report may be obtained from the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460.

2003.3–4.8 Dispersant Effectiveness—Use standard effectiveness test methods in EPA R2–73–201, May 1973, pages 11–21.

2003.3–4.9 Flash Point—Select appropriate method from the following: ASTM—D 56–70; ASTM—D 92–72; ASTM—D 93–72; ASTM—D 1310–67.

2003.3–4.10 Pour Point—Use ASTM D 97–66

2003.3–4.11 Viscosity—Use ASTM D 445–72

2003.3–4.12 Specific Gravity—Use ASTM D 1298–67

2003.3–4.13 pH—Use ASTM D 1293–65

2003.3–4.14 Ionic Activity—Use Weatherburn Test as described below:

Ionic activity tests (Weatherburn Test)

Reagents: 1. Dye solution: 0.03 grams methylene blue, 12 grams concentrated sulfuric acid, 50 grams anhydrous sodium sulfate dissolved in water to make a total of one liter solution.

2. Anionic surfactant solution—0.5% Aerosol OT (Sodium dioctyl sulfo succinate).

3. Chloroform.

Procedure: 1. Into a 25 ml. test tube, place 8 ml. of dye solution and 5 ml. chloroform. Add anionic surfactants solution drop by drop, shaking vigorously between drops and allowing phases to separate. Continue adding dropwise until the two layers are equal in color and intensity viewed in reflected light. Usually 10 to 12 drops of anionic solution are required.

2. Now add 2 ml. of 0.1% solution of the unknown and shake vigorously.

Results: 1. Chloroform phase (lower) is deeper in color and aqueous phase is mostly colorless—anionic is positive.

2. Water phase (upper) is deeper in color than the chloroform phase—cationic is positive.

3. Both phases are more or less the same color—probably a nonionic.

4. If the aqueous phase has become milky and hence slightly lighter in color, it may still be nonionic. Soaps do not react in this procedure. If both anionics and nonionics are present, the reaction of this test will be anionic positive.

2003.3–4.15 Miscibility—Use the test described below which is a modification of military specification MIL–C–22230 (ships):

One part of the dispersing agent is mixed with 100 parts of synthetic sea water. The solution is agitated for one hour and any visible separation of the dispersing agent should be noted after this period of agitation. The test is to be performed with water temperatures at both 20°C and 0°C. The synthetic sea water shall be formulated as follows:

Sodium Chloride (grams)	150.0
Magnesium Chloride, hexahydrate (grams)	66.0
Calcium Chloride dihydrate (grams)	9.6
Sodium Sulfate anhydrous (grams)	24.0
Distilled water to make a total of (liters)	6.0

2003.3–4.16 Dispersing Agent Components

Itemize by chemical name and percentage by weight of each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variation in manufacture or formulations. At least the following major components shall be identified in complying with 2003.3–4.16.

(a) Surface active agents.

(b) Solvents.

(c) Additives.

If requested by the submitter, information from 2003.3–4.16 will be handled as trade secrets under provisions of P.L. 90–23, the Administrative Procedures Act.

2003.3–4.17 Heavy Metal and Chlorinated Hydrocarbons

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be reasonably expected to be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the detailed analytical methods and sample preparation shall be fully described.

2003.3–5 Analytical Laboratory Requirements for Technical Product Data:

2003.3–5.1 The required tests shall be performed by a qualified laboratory.

2003.3–5.2 The technical product data submission shall include the identity of the laboratory, the qualifications of the laboratory staff including professional biographical information for individuals responsible for any tests, and laboratory experience with similar tests. Laboratories performing bioassay tests for dispersant or surface collecting agent toxicity must demonstrate previous bioassay experience in order for their results to be accepted. EPA will not approve the selection of laboratories by intended submitters of technical product data prior to submission of the data. It is the responsibility of the submitter to select competent analytical laboratories based on the guidelines contained herein.

2003.3–5.3 EPA reserves the right to refuse to accept a submission of technical product data because of lack of qualifications of analytical laboratory, significant variance between submitted data and any laboratory confirmation performed by EPA, or other circumstances that will result in inadequate or inaccurate environmental information on the dispersing agent.

2004 Surface Collecting Agent Program for Spills of Oil and Applicable Hazardous Substances

2004.1 Authorization for Use of Surface Collecting Agents: Major, Medium and Minor Discharges.

2004.1–1 The OSC may authorize use of surface collecting agents on a case-by-case basis when their use will:

2004.1–1.1 Result in the least overall environmental damage or interference with designated water uses, and

2004.1–1.2 Provide a key element in the most effective system for removing oil or hazardous substances discharge from the water environment.

2004.1–2 Mechanism for authorizing use. The OSC may authorize the use of a surface collecting agent verbally when on scene or by telephone prior to arriving on scene. In all cases, the OSC is obligated to comply with the provisions of 2004.2 prior to making such authorization. A review of the capabilities and expertise of the owner or operator or cleanup contractor prior to the occurence of the spill incident would be most beneficial in situations where telephone authorization is desired or contemplated.

2004.2 Restrictions on Surface Collecting Agent Use.

2004.2–1 The OSC may authorize the use of surface collecting agents only after being informed of the environmental conditions at the point of intended use. These environmental conditions include air and water temperatures, wind conditions, wave and current conditions, presence and relative density of debris and other floating matter on the water, type and condition of the oil or hazardous substance spilled, special biological factors such as waterfowl sanctuaries, wildlife refuges, spawning or nursery grounds, shellfish beds, swamp areas, etc., and the availability of removal equipment that could be employed to remove the collected material from the water. Information on environmental conditions should be evaluated by the OSC from the standpoint that conditions such as strong winds, choppy waters, low temperatures, debris, and aquatic vegetation can adversely affect the performance of collecting agents or complicate further removal operations. The performance can also vary with types of oils or hazardous substances. The agents can be effective with thin films of light oils but have little value with thick layers of heavy, viscous oils. The agents should not be used unless adequate removal equipment is available to remove the collected oil.

2004.2–2 A chemical agent shall not be used as a surface collecting agent unless the provisions of 2004.3 are complied with and EPA has informed the manufacturer's representative that the product is acceptable for use as a surface collecting agent.

2004.3 Technical Product Data for Surface Collecting Agents.

2004.3–1 Technical product data as specified in 2004.3–4 shall be provided to the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460, at least 60 days prior to the use of the agent. The use of existing surface collecting agents may be authorized by the OSC without complying with 2004.3 for 120 days from the effective date of this Annex. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data submitted. If additional data are requested or EPA desires to perform additional tests, the surface collecting agent may not be used until these additional needs have been satisfied and the submitter so notified.

2004.3–2 Information furnished in accordance with 2004.3–4 shall be maintained on file by the EPA, Oil and Special Materials Control Division (WH–548), Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use, dosage rates and special problems in the use of surface collecting agent. Any changes in the composition or formulation of the surface collecting agent that will affect any of the data requested in 2004.3 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised formulation of the surface collecting agent.

2004.3–3 EPA will review technical product data for surface collecting agents and will issue approvals for agents meeting certain criteria. At present, the only minimum criterion established is for solubility which is described in 2004.13. This criterion classifies the substance as a surface collecting agent but is not an indication of the effectiveness or toxicity of the material. Other product data such as toxicity, chemical components, and

physical characteristics will be reviewed and, if the combined effects of these data and other factors will result in excessive hazard to the aquatic life, work safety, or other elements of the environment in the judgment of EPA, the Agency may refuse to approve the use of the agent.

EPA may, from time to time, establish minimum criteria for the data being requested and may also require additional data to assist in arriving at a judgment on the environmental acceptability of collecting agent usage.

To avoid possible misinterpretation and misrepresentation of the EPA's role in the surface collecting agent technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2004.3–4 in any advertisements or technical literature on the collecting agent. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the surface collecting agent beyond that stated in the letter for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the surface collecting agent.

2004.3–4 Required Technical Product Data

2004.3–4.1 Name, brand, or trademark, if any, under which the surface collecting agent is sold.

2004.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2004.3–4.3 Name, address and telephone number of primary distributors or sales outlets.

2004.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperature to include optimum ranges as well as temperatures that will cause phase separation, chemcial changes, or otherwise damage effectiveness of the surface collecting agent.

2004.3–4.5 Shelf Life.

2004.3–4.6 Recommended application procedure(s), concentration(s) and conditions for us depending upon water salinity, water temperature and types and ages of the pollutants.

2004.3–4.7 Surface Collecting Agent Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2–73–201, May 1973) pages 22–34. This report may be obtained from the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460.

2004.3–4.8 Flash Point—Select appropriate method from the following: ASTM—D 56–70; ASTM—D 92–72; ASTM—D 93–72; ASTM—D 1310–67.

2004.3–4.9 Pour Point—Use ASTM D 97–66

2004.3–4.10 Viscosity—Use ASTM D 445–72

2004.3–4.11 Specific Gravity—Use ASTM D 1298—67

2004.3–4.12 pH—Use ASTM D 1293–65

2004.3–4.13 Interim Test to Distinguish Between Surface Collecting Agents and Other Spill Cleanup Chemicals.

In order to distinguish between surface collecting agents and other chemical materials, this interim test procedure was developed. This test procedure is not an efficiency test. It is to be used only to distinguish between surface collecting agents and dispersants.

Scope

1. Procedure to be used to determine the solubility in water under standard conditions of oil spill control chemicals.

Method Summary

2. Five (5) milliliters of the chemical under test are intimately mixed with ninety-five (95) milliliters of distilled water, allowed to stand undisturbed for one hour, and then the volume of the upper phase is determined to the nearest 1 milliliter.

Apparatus

3. (a) Mixing cylinder, 100 milliliter subdivisions and fitted with glass stoppers.
(b) Pipettes: Volumetric pipette, 5.0 millileter.
(c) Timers

Procedure

4. Add 95 milliliters of distilled water 22°C+/−3°C to a 100 milliliter mixing cylinder. To the surface of the water in the mixing cylinder, add 5.0 milliliters of the chemical under test. Insert the stopper and invert the cylinder 5 times in 10 seconds. Set upright for one (1) hour at 22°C+/−3°C and then measure the chemical layer at the surface of the water. The major portions of the chemical added (75%) should be at the water surface as a separate and easily distinguished layer.

2004.3–4.14 Surface Collecting Agent Components

Itemize by chemical name and percentage by weight each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variations in manufacture or formulations. At least the following major components shall be identified.

(a) Surface active agents
(b) Solvents
(c) Additives

If requested by the submitter, information for 2004.3–4.14 will be handled as trade secrets under provisions of Pub. L. 90–23, the Administrative Procedures Act.

2004.3–4.15 Heavy Metals and Chlorinated Hydrocarbons

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the detailed analytical methods and sample preparations shall be fully described.

2004.3–5 Analytical Laboratory Requirements for Technical Product Data:

Follow stipulations in 2003.3–5

2005 Biological Additive Program for Spills of Oil and Applicable Hazardous Substances

2005.1 Authorization for use of biological additives.

2005.1–1 All discharges, the OSC may authorize the use of biological additives on water or shorelines only after obtaining the approval of the EPA representative to RRT. The manufacturer or supplier of microbiological cultures or enzymes must obtain approval from State and local public health and pollution control officials and furnish evidence of such approval to the EPA RRT representative.

2005.2 Special Restrictions on Biological Additive Use

2005.2–1 Microbiological cultures and enzyme mixtures shall not be considered for use as biological additives unless technical product data have been provided and accepted in accordance with 2005.3.

2005.2–2 The OSC must be supplied with the chemical composition and ratios of primary nutrients or nutrient additives prior to seeking approval for their use.

2005.3 Technical Product Data for Biological Additives

2005.3–1 Technical product data as outlined in 2005.3–4 on the constituents of a biological additive shall be submitted to the Oil and Special Materials Control Division (WH–548), Environmental Protection Agency, Washington, D.C. 20460, at least 60 days prior to the use of the additive. Within 60 days of receipt of the data, EPA will inform in writing the submitter on the adequacy of the data provided.

If additional information is requested or EPA desires to perform tests, the biological additive may not be used until the additional needs have been satisfied and the submitter so notified.

2005.3–2 Information furnished in accordance with 2003.3–4 shall be maintained on file by EPA to provide technical guidance to OSCs on the acceptable circumstances of use and application rates for biological additives. Any changes in the composition of the biological additive that will affect any of the data being requested in 2005.3–4 shall be immediately brought to the attention of EPA, and testing of the additive will be repeated prior to the use of the revised biological additive.

2005.3–3 The acceptance and maintenance of product data by EPA does not constitute approval of the biological additive nor does it imply compliance with any EPA criteria or minimum standards for such additives. The OSC will determine which biological additive may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2005.3–4 in any advertisements or technical literature on the biological additive. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the biological

additive for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the biological additive.

2005.3–4 Required Technical Product Data

2005.3–4.1 Name, brand, or trademark, if any, under which the biological additive is sold.

2005.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2005.3–4.3 Name, address and telephone number of primary distributors or sales outlets.

2005.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures.

2005.3–4.5 Shelf Life.

2005.3–4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2005.3–4.7 Statements on the expected effectiveness of the additive including degradation rates and the test conditions and data on effectiveness.

2005.3–4.8 For microbiological cultures furnish the following information:

Listing of all microorganisms to species, [1]

Percentage of each species in the composition of the additive, [1]

Optimum pH and temperature range for use of the additive,

Special nutrient requirements, if any,

Separate listing of the following and test methods for such determinations: Salmonella, fecal coliform, Shigella, Staphylococcus Coagulase positive, and Beta Hemolytic Streptococci.

2005.3–4.9 For enzyme additives furnish the following information:

Enzyme name(s),

International Union of Biochemistry (I.U.B.) number(s),

Source of the enzyme,

Units,

Specific Activity,

Optimum pH and temperature range for the use of the additive.

2005.3–5 Laboratory Requirements for Technical Product Data: Follow stipulations in 2003.3–5.

2006 Burning Agent Program for Spills of Oil and Applicable Hazardous Substances

2006.1 Authorization for Use of Burning Agents

2006.1–1 All discharges. The OSC may authorize the use of burning agents only when they will:

2006.1–1.1 Prevent or substantially reduce imminent threats to human life, limb, or property;

2006.1–1.2 Result in the least environmental harm when compared to other removal or disposal methods.

2006.1–2 Prior to authorizing use under 2006.1–1.2, the OSC must obtain approval of the EPA RRT representative and all applicable State and local public health pollution control officials.

2006.2 Special Restrictions on Burning Agent Use

2006.2–1 The OSC will evaluate the suitability of burning agents on a case-by-case basis. Burning agents should be inert materials that will not, in themselves, be a water pollutant. The addition of oils (such as gasoline or solvents) as an igniter shall be avoided unless it is necessary under 2006.1–1.

2006.2–2 A technical data program for burning agents will not be established at this time.

2007 Sinking Agent Program for Spills of Oil and Applicable Hazardous Substances

2007.1 Authorization for Use of Sinking Agents

2007.1–1 All Discharges

Sinking agents shall not be applied to discharges of oil or hazardous substances on the navigable water of the United States or the contiguous zone.

2008 Mechanical Methods and Sorbents Program for Spills of Oil and Hazardous Substances

2008.1 Authorization for Use of Mechanical Methods and Sorbents

2008.1–1 All Discharges

2008.1–1.1 As stated in 2001.3, it is the policy of this Schedule to favor the use of mechanical methods and sorbents for removal of oil and hazardous substances spills. The OSC has the authority to use or prohibit specific mechanical methods and sorbents on a case-by-case basis. The OSC will select methods and materials that, in his judgment, will be most effective in expeditiously removing the spilled material and mitigating the related damages, and will minimize secondary pollution from the removal or mitigation operation. Prior to authorizing the use of sorbents, the OSC shall take into consideration hydrographic and meteorological conditions as well as the characteristics of the sorbent and the availability of adequate containment and removal equipment.

2008.1–1.2 A technical data program for mechanical methods and sorbents will not be established at this time.

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[1] If requested by the submitter, these items will be handled as trade secrets under the provisions of the Administrative Procedures Act (Pub. L. 90–23).

federal register

Wednesday
March 19, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Seizure and Forfeiture Procedures

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 12

Seizure and Forfeiture Procedures

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Regulations are issued which revise 50 CFR Part 12, entitled, "Seizure and Forfeiture Procedures." A number of laws enforced by the Service provide for the seizure and forfeiture of wildlife and other property involved in violations. This revision of the Service's seizure and forfeiture regulations clarifies existing procedures and implements the provisions for administrative forefeiture proceedings contained in several statutes that adopt the customs forfeiture laws.

EFFECTIVE DATE: April 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald E. Swan, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. Telephone: 202–343–2172.

SUPPLEMENTARY INFORMATION:

Background

A number of laws administered by the Service provide for forfeiture to the United States of wildlife, plants, and other property involved in violation of the laws. In addition, several laws administered by the Service authorize the assessment of civil monetary penalties for violations of certain prohibitions. As part of the compromise or settlement of such civil penalty claims, property subject to forfeiture may be transferred to the United States in exchange for reduction or elimination of the penalty. These regulations establish procedures governing forfeiture of property, transfers of property in settlement of civil penalty claims, and related activities such as appraisement of seized property and petitions for remission of forfeitures.

A proposed rulemaking for these regulations was published in the **Federal Register** on April 4, 1979 (44 FR 20228–20232), and a number of comments were received in response.

Description of Regulations and Discussion of Comments

Sections 12.1 and 12.2 of the regulations set forth general provisions concerning their purpose and scope.

Section 12.3 defines a number of important terms. Several comments suggested that this section should also include definitions of "Director" and "conclusion of civil penalty assessment proceedings." However, definitions of these terms appear to be unnecessary. "Director" is already defined in 50 CFR 10.12, and the rules governing finality and effectiveness of civil penalty assessments are already set forth in 50 CFR 11.16, 11.24–11.25.

It was also pointed out that the definition and references to "domestic" with regard to the value of certain seized property are inappropriate for a number of wildlife items that may not lawfully be sold in the United States. In response to this comment, § 12.12, which provides for determinations of such value, has been amended to provide that if the seized property may not lawfully be sold in the United States, its value will be determined by reasonable means other than those provided in § 12.3 for determinations of domestic value.

Section 12.4 establishes time requirements for the filing of documents. Section 12.5 provides for delivery to the Service of property covered by these regulations which has been seized by other Federal agencies.

In certain instances, it may be appropriate to release seized property rather than hold such property for the duration of legal proceedings. Such release, in exchange for a bond or other security, is authorized by the Eagle Protection Act, Airborne Hunting Act, Marine Mammal Protection Act, Endangered Species Act, and Lacey Act. 16 U.S.C. 668b(c), 742j–1(f), 1376(a), 1377(e)(2), 1540 (e)(3), (f); 18 U.S.C. 43(c)(2); 19 U.S.C. 1614, 1623. Section 12.6 implements these statutory provisions by prescribing the terms and conditions for bonded release.

Several comments were received on § 12.6. One comment questioned why bonded release of seized property is allowed under § 12.6, when it is not allowed upon payment of the $250 bond specified in § 12.23. The answer is that bonded release under § 12.6 is authorized by statute, and may be necessary to insure the health or proper care of live wildlife, to prevent spoilage of perishable property, or to avoid unwarranted storage costs. The reason release is not allowed under § 12.23 is that the $250 bond provided by that section does not serve as security for the seized property. Its sole function is to provide security for the costs and expenses of obtaining forfeiture by means of an action in Federal district court.

Another comment objected to the financial burdens imposed by any bonding system that requires submission of a certified check in the amount of the value of the property to be released. Concern was expressed that such burdens could be increased by the provision in the regulations providing for appraisement by the Service to determine the value of seized items. As a result of this comment, the wording of § 12.6 has been revised somewhat to make clear that the Service may be flexible in determining the type of security necessary for any given release. If doing so is warranted by the circumstances, the Service may accept payment of less than the full value of the seized property.

It was also urged that a requirement for release on bond be a determination that release is necessary to insure the health or safety of seized wildlife. This requirement must be rejected as too restrictive. For example, it might be appropriate to release furs involved in a minor marking violation if the risks of deterioration and costs of storage were excessively high.

Section 12.11 of the final regulations provides for notifying the owner or consignee of wildlife or other property of any seizure thereof. This provision is required by statute in certain cases, 16 U.S.C. 1377(e)(1), 18 U.S.C. 43(c)(2), is contained in the current seizure and forfeiture regulations, 50 CFR 12.11 (1978), and was omitted from the proposed rulemaking due to an oversight.

Sections 12.21 and 12.22 set forth procedures relating to judicial forfeiture proceedings. Section 12.21 deals with criminal forfeiture and § 12.22 deals with civil in rem actions to obtain forfeiture. With regard to § 12.22, one comment expressed the fear that the section's references to the Solicitor and the Attorney General would preclude direct referral from the Regional and Field Solicitors to United States Attorneys of requests for forfeiture actions. This fear is groundless. Section 12.3 of the regulations defines "Solicitor" and "Attorney General" to include the "authorized representatives" of these persons. Thus, in accordance with Interior and Justice Department policies, requests for forfeiture actions may be directly referred to United States Attorneys by Regional and Field Solicitors.

The Eagle Protection Act, Airborne Hunting Act, Marine Mammal Protection Act (as it applies to the cargo of vessels employed in unlawful taking), and Endangered Species Act adopt the forfeiture provisions of the "customs laws." 16 U.S.C. 668b(c), 742j–1(f), 1311(a), 1540(e)(5). The customs laws referred to are certain provisions of the Tariff Act of 1930, 19 U.S.C. 1602–1624. Under the Tariff Act, property having an appraised domestic value not in excess

of $10,000 may be forfeited through administrative proceedings conducted by the Department. 19 U.S.C. 1606–1609. In connection with these proceedings, the Tariff Act also provides for the filing of petitions to remit forfeitures and petitions to restore the proceeds of forfeited property disposed of according to law. 19 U.S.C. 1613, 1618.

Sections 12.12, 12.23, 12.24, and 12.41 of the regulations govern the administrative forfeiture proceedings described above.

As mentioned previously, § 12.12 provides for the appraisement of seized property to determine its value. A comment on this section recommended that it specify in greater detail how and by whom appraisements will be made. It is presently contemplated that the Service's Special Agent in Charge for the state in which the seized property is located will be responsible for the appraisement, and that in carrying out his responsibilities the Special Agent in Charge may utilize the services and expertise of customs appraisers and other knowledgeable persons. However, such internal procedures on the details of appraisement should be spelled out in a Service manual rather than in general regulations guiding the conduct of the public.

Section 12.23 prescribes the notice and other procedural requirements applicable to administrative forfeiture proceedings. With regard to notice of the proceedings, one comment expressed the fear that the posting provision for proceedings against items not greater than $250 in value may refer to posting at the Service's office in Washington, D.C. This is not the case. The regulation states that posting must be at the Service's field enforcement office closest to the place of seizure.

It was also suggested that the regulations specify whether it is the Solicitor's Office or the Service that has responsibility for posting the notice or publishing it in a newspaper of general circulation. The responsibility for proper posting or newspaper publication lies with the Regional or Field Solicitor conducting the forfeiture proceeding, but in meeting that responsibility the Regional or Field Solicitor will be assisted by the Service's personnel.

Comments on § 12.23 also expressed concern about the meaning and effect of its provisions governing service of the notice of proposed forfeiture. The statute authorizing the regulation requires only that the notice be "* * * published for at least three successive weeks in such manner as the Secretary * * * may direct." 19 U.S.C. 1607. Accordingly, section 12.23 provides for service by newspaper publication or posting. However, the courts have indicated that depending on the circumstances, service by publication, without further efforts, may not be sufficient for claimants whose interests and locations are known or easily ascertainable. *Menkarell* v. *Bureau of Narcotics*, 463 F. 2d 88 (3rd Circ. 1972); *Jaekel* v. *United States*, 304 F. Supp. 993 (S.D.N.Y. 1969); *see also, Robinson* v. *Hanrahan*, 409 U.S. 38 (1972); *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950). Thus, for such claimants, section 12.23 requires that in addition to service by publication, a reasonable effort must be made to serve the notice personally, or by registered or certified mail.

It was also recommended that paragraph (b)(2) of § 12.23 be clarified to indicate that claims in response to the notice of proposed forfeiture are to be filed with the Regional or Field Solicitor's office that issued the notice. Such clarifying language has been added. Also, in recognition of the fact that most claims will be filed by mail, the time period has been extended. Instead of a 20 day period, claims must be received by the office issuing the notice within 30 days after the date of first publication or posting of the notice.

In the same manner as § 12.22, paragraph (b)(3) of § 12.23 speaks of claims in response to the notice of proposed forfeiture being transmitted by the "Solicitor" to the "Attorney General," and concern was expressed that use of these terms would preclude Regional and Field Solicitors from referring the claims directly to United States Attorneys.

Again, however, because § 12.3 defines "Solicitor" and "Attorney General" to include "authorized representatives," claims may be referred directly to United States Attorneys by Regional or Field Solicitors in accordance with Interior and Justice Department policies.

Sections 12.24 and 12.41 set forth the rules governing petitions for remission of forfeiture and petitions for restoration of proceeds. Several comments were received on these sections. It was recommended that these petitions be handled by the Solicitor rather than the Director, since the Solicitor will be responsible for the forfeiture proceedings which cause the petitions to be filed. This change has been made.

With regard to § 12.24, questions were raised as to the scope of the forfeiture remission authority. The statute authorizing forfeiture remissions provides that if in response to a petition, the Secretary "* * * finds the existence of such mitigating circumstances as to justify the remission * * * of * * * [a] forfeiture, [he] may remit * * * the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto." 19 U.S.C. 1618. Accordingly, § 12.24 provides that if the requisite finding is made in response to a petition, the Solicitor may order discontinuance of any administrative forfeiture proceeding initiated under § 12.23, or may remit any forfeiture declared by an office of the Solicitor as a result of such a proceeding. However, as the section makes clear, the solicitor's authority is limited to proceedings or declarations within the Department of the Interior. For forfeiture proceedings or declarations in District Court, petitions must be filed with the Attorney General.

As indicated previously, several statutes administered by the Service authorize the assessment of civil monetary penalties for violations, in addition to forfeiture of the property involved. These statutes are the Eagle Protection Act, Marine Mammal Protection Act, Endangered Species Act, and Lacey Act. 16 U.S.C. 668(b), 1375(a), 1377(e), 1540(a); 18 U.S.C. 43(c). As part of the compromise or settlement of civil penalty claims under these statutes, title to property subject to forfeiture may be voluntarily transferred to the United States in exchange for reduction or elimination of the penalty. Section 12.25 of the regulations prescribes the requirements for such transfers.

A comment on § 12.25 recommended that the section clarify whether it is the Service or the Solicitor's Office that may settle civil penalty claims in exchange for transfers of property. The regulation now makes clear that such settlements must be approved by the Solicitor's Office.

Section 12.42 of the regulations provides for the recovery of certain storage and handling costs. A comment suggested that § 12.42 be eliminated because the expenses of litigation to collect storage and handling costs would probably exceed the amount of such costs. This suggestion is rejected. Suffice it to say that the regulation is specifically authorized by the Endangered Species Act, 16 U.S.C. 1540(f), and that the costs incurred by the government in storing and caring for seized wildlife often run into thousands of dollars.

Finally, § 12.51 of the regulations establishes the procedures for returning seized property to owners or consignees.

In addition to the changes in the proposed regulations discussed above, a number of minor technical changes were made in the interests of clarity and efficient administration.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The principal author of these regulations is Ronald E. Swan, Office of the Solicitor, Department of the Interior. (202–343–2172).

Accordingly, Part 12 of Title 50, Code of Federal Regulations is hereby revised to read as set forth below.

Dated: March 13, 1980.

Lynn A. Greenwalt,

Director.

PART 12—SEIZURE AND FORFEITURE PROCEDURES

Subpart A—General Provisions

Sec.
12.1 Purpose.
12.2 Scope of regulations.
12.3 Definitions.
12.4 Filing of documents.
12.5 Seizure by other agencies.
12.6 Bonded release.

Subpart B—Preliminary Requirements

12.11 Notification of seizure.
12.12 Appraisement.

Subpart C—Forfeiture Proceedings

12.21 Criminal prosecutions.
12.22 Civil actions to obtain forfeiture.
12.23 Administrative forfeiture proceedings.
12.24 Petition for remission of forfeiture.
12.25 Transfers in settlement of civil penalty claims.

Subpart D—Disposition of Forfeited or Transferred Property [Reserved]

Subpart E—Restoration of Proceeds and Recovery of Storage Costs

12.41 Petition for restoration of proceeds.
12.42 Recovery of certain storage costs.

Subpart F—Return of Property

12.51 Return procedure.

Authority: Act of September 6, 1966, 5 U.S.C. 301; Eagle Protection Act, 16 U.S.C. 668–668b; National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd(f); Migratory Bird Treaty Act, 16 U.S.C. 706–707, 712; Migratory Bird Hunting Stamp Act, 16 U.S.C. 718f; Airborne Hunting Act, 16 U.S.C. 742j–1(d)–(f); Black Bass Act, 16 U.S.C. 852d; Marine Mammal Protection Act, 16 U.S.C. 1375–1377, 1382; Endangered Species Act, 16 U.S.C. 1540; Lacey Act, 18 U.S.C. 43–44; Tariff Act of 1930, 19 U.S.C. 1602–1624.

Subpart A—General Provisions

§ 12.1 Purpose of regulations.

The regulations of this part establish procedures relating to property seized or subject to forfeiture under various laws enforced by the Service.

§ 12.2 Scope of regulations.

Except as hereinafter provided, the regulations of this part apply to all property seized or subject to forfeiture under any of the following laws:

(a) The Eagle Protection Act, 16 U.S.C. 668 *et seq.*;

(b) The National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd *et seq.*;

(c) The Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*;

(d) The Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*;

(e) The Airborne Hunting Act, 16 U.S.C. 742j–l;

(f) The Black Bass Act, 16 U.S.C. 851 *et seq.*;

(g) The Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*;

(h) The Endangered Species Act, 16 U.S.C. 1531 *et seq.*; and

(i) The Lacey Act, 18 U.S.C. 43–44.

§ 12.3 Definitions.

(a) As used in this part:

(1) "Attorney General" means the Attorney General of the United States or an authorized representative;

(2) "Domestic value" means the price at which the seized property or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the oridinary course of trade. If there is no market for the seized property at the place of appraisement, such value in the principal market nearest to the place of appraisement shall be reported.

(3) "Solicitor" means the Solicitor of the Department of the Interior or an authorized representative.

(b) The definitions of paragraph (a) of this section are in addition to, and not in lieu of, those contained in § 1.1–1.8 and § 10.12 of this title.

§ 12.4 Filing of documents.

(a) Whenever any document is required by this part to be filed or served within a certain period of time, such document will be considered filed or served as of the date of receipt by the party with or upon whom filing or service is required. The time periods established by this part shall begin to run on the day following the date of filing or service.

(b) If an oral or written application is made before the expiration of a time period established by this part, an extension of such period for a fixed number of days may be granted where there are reasonable grounds for the failure to file or serve the document within the period required. Any such extension shall be in writing. Except as provided in this paragraph, no other requests for an extension shall be granted.

§ 12.5 Seizure by other agencies.

Any authorized employee or officer of any other Federal agency who has seized any wildlife or other property under any of the laws listed in § 12.2 will, if so requested, deliver such seizure to the appropriate Special Agent in Charge designated in § 10.22 of this title, or to an authorized designee, who shall either hold such seized wildlife or other property or arrange for its proper handling and care.

§ 12.6 Bonded release.

(a) Subject to the conditions set forth in paragraphs (b) and (c) of this section, and to such additional conditions as may be appropriate, the Service, in its discretion, may accept an appearance bond or other security (including, but not limited to, payment of the value as determined under § 12.12) in place of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, Lacey Act, 18 U.S.C. 43, Airborne Hunting Act, 16 U.S.C. 742j–l, or Eagle Protection Act, 16 U.S.C. 668 *et seq.*

(b) Property may be released under this section only to the owner or consignee.

(c) Property may be released under this section only if possession thereof will not violate or frustrate the purpose or policy of any applicable law or regulation.

Subpart B—Preliminary Requirements

§ 12.11 Notification of seizure.

Except where the owner or consignee is personally notified or seizure is made pursuant to a search warrant, the Service shall, as soon as practicable following the seizure or other receipt of seized wildlife or other property, mail a notification of seizure by registered or certified mail, return receipt requested, to the owner or consignee, if known or easily ascertainable. Such notification shall describe the seized wildlife or other property, and shall state the time, place, and reason for the seizure.

§ 12.12 Appraisement.

The Service shall determine the value of any cargo, of a vessel or other conveyance employed in unlawful taking, seized under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and the value of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j–1, *et seq.* If the seized property may lawfully be sold in the United States, its domestic value shall be determined in

accordance with § 12.3. If the seized property may not lawfully be sold in the United States, its value shall be determined by other reasonable means.

Subpart C—Forfeiture Proceedings

§ 12.21 Criminal prosecutions.

If property is subject to criminal forfeiture, such forfeiture will be obtained in accordance with the *Federal Rules of Criminal Procedure.*

§ 12.22 Civil actions to obtain forfeiture.

The Solicitor may request the Attorney General to file a civil action to obtain forfeiture of any property subject to forfeiture under the Airborne Hunting Act, 16 U.S.C. 742j–1, Lacey Act, 18 U.S.C. 43–44, Black Bass Act, 16 U.S.C. 851 *et seq.*, Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*, Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*, Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Endangered Species Act, 16 U.S.C. 1531 *et seq.* Before any such action is filed against property subject to forfeiture under the Lacey Act, 18 U.S.C. 43, or against property, other than the cargo of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, a civil penalty must first be assessed in accordance with the statute and applicable regulations, and no such action may be filed more than 30 days after the conclusion of civil penalty assessment proceedings.

§ 12.23 Administrative forfeiture proceedings.

(a) *When authorized.* Whenever any property subject to forfeiture under the Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j–1, or any wildlife or plant subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, is determined under § 12.12 to have a value not greater than $10,000, the Solicitor may obtain forfeiture of such property in accordance with this section.

(b) *Procedure.*—(1) *Notice of proposed forfeiture.* As soon as practicable following seizure, the Solicitor shall issue a notice of proposed forfeiture.

(A) *Publication.* The notice shall be published once a week for at least three successive weeks in a newspaper of general circulation in the locality where the property was seized. If the value of the seized property as determined under § 12.12 does not exceed $250, the notice may be published by posting, instead of newspaper publication, for at least three successive weeks in a conspicuous place accessible to the public at the Service's enforcement office and the United States District Court nearest the place of seizure. In cases of posting, the date of initial posting shall be indicated on the notice. In addition to newspaper publication or posting, a reasonable effort shall be made to serve the notice personally or by registered or certified mail, return receipt requested, on each person whose whereabouts and interest in the seized property are known or easily ascertainable.

(B) *Contents.* The notice shall be in substantially the same form as a complaint for forfeiture filed in United States District Court. The notice shall describe the property, including, in the case of motor vehicles, the license, registration, motor, and serial numbers. The notice shall state the time and place of seizure, as well as the reason therefor, and shall specify the value of the property as determined under § 12.12. The notice shall contain a specific reference to the provisions of the laws or regulations allegedly violated and under which the property is subject to forfeiture. The notice shall state that any person desiring to claim the property must file a claim and a $250 bond in accordance with paragraph (b)(2) of this section, and shall state that if a proper claim and bond are not received by the proper office within the time prescribed by such paragraph, the property will be declared forfeited to the United States and disposed of according to law. The notice shall also advise interested persons of their right to file a petition for remission of forfeiture in accordance with § 12.24.

(2) *Filing a claim and bond.* Upon issuance of the notice of proposed forfeiture, any person claiming the seized property may file with the Solicitor's office indicated in the notice a claim to the property and a bond in the penal sum of $250. Any claim and bond must be received in such office within 30 days after the date of first publication or posting of the notice of proposed forfeiture. The claim shall state the claimant's interest in the property. The $250 bond filed with the claim shall be on a United States Customs Form 4615 or on a similar form provided by the Department. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a particular description of seized article, claim for which is covered by the within bond, to wit:

_____

_____

The foregoing list is correct.

_____

Claimant

Attest:

_____

_____

The claim and bond referred to in this paragraph shall not entitle the claimant or any other person to possession of the property.

(3) *Transmittal to Attorney General.* As soon as practicable after timely receipt by the proper office of a proper claim and bond in accordance with paragraph (b)(2) of this section, the Solicitor shall transmit such claim and bond to the Attorney General for institution of forfeiture proceedings in United States District Court.

(c) *Summary forfeiture.* If a proper claim and bond are not received by the proper office within 30 days as specified in paragraph (b)(2) of this section, the Solicitor shall declare the property forfeited. The declaration of forfeiture shall be in writing, and shall be sent by registered or certified mail, return receipt requested, to the Service and to each person whose whereabouts and prior interest in the seized property are known or easily ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in United States District Court. The declaration shall describe the property and state the time, place, and reason for its seizure. The declaration shall identify the notice of proposed forfeiture, describing the dates and manner of publication of the notice and any efforts made to serve the notice personally or by mail. The declaration shall state that in response to the notice a proper claim and bond were not timely received by the proper office from any claimant, and that therefore all potential claimants are deemed to admit the truth of the allegations of the notice. The declaration shall conclude with an order of condemnation and forfeiture of the property to the United States for disposition according to law.

§ 12.24 Petition for remission of forfeiture.

(a) Any person who has an interest in cargo, of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, or any person who has an interest in any property subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j–1, or any person who has incurred or is alleged to have incurred a

forfeiture of any such property, may file with the Solicitor or, when forfeiture proceedings have been bought in United States District Court, the Attorney General, a petition for remission of forfeiture.

(b) A petition filed with the Solicitor need not be in any particular form, but it must be received before disposition of the property and must contain the following:

(1) A description of the property;

(2) The time and place of seizure;

(3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title, and other satisfactory evidence; and

(4) A statement of all facts and circumstances relied upon by the petitioner to justify remission of the forfeiture.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition must be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under title 18, United States Code, section 1001.

(e) Upon receiving the petition, the Solicitor shall decide whether or not to grant relief. In making a decision, the Solicitor shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Solicitor finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Solicitor may remit or mitigate the same upon such terms and conditions as may be reasonable and just or may order discontinuance of any proceeding under § 12.23

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

§ 12.25 Transfers in settlement of civil penalty claims.

In the discretion of the Solicitor, an owner of wildlife or plants who may be liable for a civil penalty under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, Lacey Act, 18 U.S.C. 43, Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, may be given an opportunity to completely or partially settle the civil penalty claim by transferring to the United States all right, title, and interest in any wildlife or plants that are subject to forfeiture. Such transfer may be accomplished by the owner's execution and return of a United States Customs Form 4607 or a similar compromise transfer of property instrument provided by the Department.

Subpart D—Disposition of Forfeited or Transferred Property [Reserved]

Subpart E—Restoration of Proceeds and Recovery of Storage Costs

§ 12.41 Petition for restoration of proceeds.

(a) Any person claiming any property or interest therein which has been forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j–1, and sold according to law, or any person claiming cargo or an interest therein, of a vessel or other conveyance employed in unlawful taking, which has been forfeited under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and sold according to law, may file with the Solicitor or, where forfeiture proceedings have been brought in United States District Court, the Attorney General, a petition for restoration of proceeds.

(b) A petition filed with the Solicitor need not be in any particular form, but it must be received within three months after the date of sale of the property and must contain the following:

(1) A description of the property;

(2) The time and place of seizure;

(3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title, and other satisfactory evidence;

(4) A request for restoration of the proceeds or such part thereof as is claimed by the petitioner; and

(5) A statement of all facts and circumstances relied upon by the petitioner to justify restoration of the proceeds, including proof that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition must be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under title 18, United States Code, section 1001.

(e) Upon receiving the petition, the Solicitor shall decide whether or not to grant relief. In making a decision, the Solicitor shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Solicitor finds the existence of such mitigating circumstances as to justify restoration of the proceeds or any part thereof and that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same, the Solicitor may order the proceeds or any part thereof restored to the petitioner, after deducting from such proceeds the costs of seizure, storage, forfeiture and disposition, the duties, if any, accruing on the seized property, and any sum due on a lien for freight, charges, or contribution in general average, notice of which has been filed with the Solicitor according to law.

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

§ 12.42 Recovery of certain storage costs.

If any wildlife, plant, or evidentiary item is seized and forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, any person whose act or omission was the basis for the seizure may be charged a reasonable fee for expenses to the United States connected with the transfer, board, handling, or storage of such property. Within a reasonable time after forfeiture, the Service shall send to such person by registered or certified mail, return receipt requested, a bill for such fee. The bill shall contain an itemized statement of the transfer, board, handling or storage costs, together with instructions on the time and manner of payment. Payment shall be made in accordance with the bill.

Subpart F—Return of Property

§ 12.51 Return procedure.

If, at the conclusion of the appropriate proceedings, seized property is to be returned to the owner or consignee, the Solicitor or Service shall issue a letter or

other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by the Service, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

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Wednesday
March 19, 1980

Part V

Department of Health, Education, and Welfare

Office of the Secretary

HEW Day Care Regulations

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

45 CFR Part 71

HEW Day Care Regulations

AGENCY: Office of the Secretary.

ACTION: Final rules.

SUMMARY: The Department of Health, Education, and Welfare is issuing final day care regulations. The regulations will replace the 1968 Federal Interagency Day Care Requirements (FIDCR) as the conditions that day care services provided to children outside of their own homes must meet in order to qualify for HEW funds.

The regulations include separate requirements for day care centers, day care homes, and State administering agencies. They do not cover care provided in a child's own home. The requirements will not apply at this time to day care programs within the jurisdiction of the new Department of Education.

EFFECTIVE DATE: All the requirements will take effect September 19, 1980, except for the training requirement and the requirements that day care homes inform parents about and refer them to health and social services which will be effective on April 1, 1981. See "Effective date" under "Supplementary Information" below.

FOR FURTHER INFORMATION CONTACT: Warren Master, Director, Office of Policy and Management Control, Office of Human Development Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, Rm. 302–E (202) 472–2458.

SUPPLEMENTARY INFORMATION:

Background

Section 2002(a)(9)(B) of title XX of the Social Security Act, enacted in 1974, (Pub. L. 93–647) directed the Secretary of HEW to study the appropriateness of Federal Interagency Day Care Requirements (FIDCR) promulgated in 1968. That Social Security Act provision also authorized the Secretary to, "by regulation, make such modifications in the [day care requirements] * * * as [the Secretary] determines are appropriate."

On June 15, 1979, the Department published in the **Federal Register** proposed revisions to the FIDCR. 44 FR 34754 (June 15, 1979). The proposed rules took into account numerous comments and suggestions made by groups and individuals throughout the country concerned with day care services.

They were also based, in part, on information obtained from HEW sponsored studies on the critical elements of day care, including a five year National Day Care Study (NDCS) performed by Abt associates, and studies by HEW's Office of Human Development Services on child day care monitoring and State day care licensing.

The June 15 notice invited comment on all aspects of the proposed rules and posed several specific questions for public consideration. The Department received over 4,000 written comments in response to the June 15 notice. In addition, the Department heard testimony on the proposed rules from participants at 10 HEW sponsored regional meetings and at a national meeting held in Washington, D.C.

In developing the final regulations we have attempted to be responsive to the needs of the low income families whose children receive day care services paid for with HEW funds. The regulations are designed to provide day care services that will promote the safety, health and proper development of the children.

At the same time, the regulations reflect a concern that the supply of day care services available to HEW funded children not be reduced because of undue cost burdens imposed by the requirements.

Finally, in formulating the regulations we have taken into account the need for flexibility and for decisionmaking and the exercise of judgment by States, by day care providers and by parents of children in day care.

The June 15 notice included an appendix to the proposed requirements which contained examples of ways to meet the requirements and "good practice" recommendations for States and providers. No appendix accompanies our final rules. However, we are preparing and will soon make available a Regulations Guide containing an expanded version of the original appendix.

Discussion of Major Comments and Changes

The section which follows includes a summary of the major comments on each element of our day care regulations, our response to those comments, and a discussion of all significant changes that we have made to the proposed regulations.

Applicability

Proposed Rule

We proposed to apply the day care requirements to all HEW programs (with the exception of the Headstart program) that provide Federal financial assistance for the care of children outside of their own homes, including day care programs funded under title IV and title XX of the Social Security Act, and programs administered by HEW's Office of Education. We also proposed to allow the Commissioner of the Office of Education to waive the requirements for certain special day care programs within the Commissioner's jurisdiction.

Comment

Some commenters questioned why we did not propose to apply our requirements to Headstart programs, to day care arrangements made by parents whose out of pocket child care costs are taken into account by States as work related expenses under the title IV–A [AFDC] program, and to Federally funded day care programs outside of HEW.

Discussion

The final regulations will apply to day care services funded under title XX [social services], and title IV [WIN, Social Services to the Territories, and Child Welfare Services] of the Social Security Act and Developmental Disability day care programs.

After the publication of the proposed regulations, Congress created a new Department of Education. As a result of this reorganization, the Secretary of HEW will no longer have jurisdiction over the education programs identified in the proposed regulation. The decisions whether to adopt the day care regulations for these education programs and whether to allow for a waiver of the requirements for special programs will rest with the Secretary of Education. In the final version of the regulations, we have, therefore, eliminated both the waiver provision and the reference to education programs.

We will not apply these requirements to the Headstart program because that program operates under its own comprehensive performance standards, which are tailored to the particular Congressionally mandated goals of the Headstart program.

We have not applied the requirements to day care arrangements under the AFDC work related expense provision or to programs not within HEW's jurisdiction because, in both instances, the Department lacks the legal authority to do so.

Multilingual and Handicapped Children in Day Care

Comment

Commenters expressed concern that the proposed rules did not adequately address the needs of multilingual and handicapped children in day care. They urged that the needs of multilingual and handicapped children be referred to in the requirement for a daily program of activities. They suggested including the needs of handicapped children and multilingual children as required subject areas to be addressed in each State's day care training plan. Commenters also asked that the Department consider a different (more stringent) set of staffing requirements when these children are receiving day care services. They noted that more staff may be required to adequately provide day care which promotes the development of handicapped or multilingual children than to serve other children in a day care center. Many commenters asked if Section 504 of the Rehabilitation Act of 1973, which sets forth requirements regarding program accessibility and nondiscrimination for the handicapped in programs receiving Federal funds, would apply to day care programs.

Discussion

The Department has accepted suggestions that we specifically address the needs of multilingual and handicapped children in the requirements for a daily program of activities and training. The requirement that day care facilities establish a planned program of developmentally appropriate activities will include a specific reference to meeting the needs of handicapped and multilingual children. The training requirement will mandate that each State agency's training plan address meeting the needs of these handicapped children. We believe that these requirements are not overly burdensome to day care providers or State agencies and that they will ensure that caregivers learn about and plan for meeting the special needs of handicapped and multilingual children.

The number of handicapped or multilingual children receiving HEW assisted day care services varies from State to State and locality to locality. In addition, the needs of individual children vary considerably. Given this diversity, the Department has decided that specific staffing requirements for these children should not be Federally mandated but rather should be left to State determination.

Section 504 of the Rehabilitation Act of 1973 requires State agencies which receive HEW day care funds to assure that day care services are programmatically and physically accessible to handicapped children. Program accessibility would include establishing and maintaining special staffing standards for handicapped children when necessary.

Availability of Federal Financial Participation

Proposed Rule

We proposed to make Federal financial participation (FFP) available to States in the costs of day care services only if the care meets all HEW requirements. The proposed regulation specified that care would be considered to meet these requirements if it were provided by a day care center or day care home which meets applicable State and local standards for licensing, registration, certification, or approval, and which either (1) had been approved by the State agency as meeting HEW requirements or (2) had submitted a plan acceptable to the State agency for correcting any deficiencies in HEW requirements within a reasonable period of time. Moreover, the proposed rule provided that FFP in a State's day care costs would be conditioned on the State agency meeting its responsibilities under these regulations. HEW could approve a plan of correction submitted by a State agency for any requirement which it fails to meet. We proposed that the State agency plan of correction, like the plan for day care homes and centers, specify a reasonable period of time for meeting all HEW requirements.

Comment

Commenters generally supported the proposed FFP requirement. Commenters stated that the plan of correction mechanism provided an innovative and sound way of allowing State agencies and providers the opportunity to improve their programs without facing an immediate loss of Federal funds. Some commenters suggested, however, that the Department specify criteria for the plans of correction and set a definite limit on the amount of time a State agency or facility could have to make required corrections.

Discussion

We have adopted the proposed FFP rule without any modification. The requirement permits State agencies the discretion to accept plans of correction if they specify reasonable time periods within which HEW requirements would be met. The requirement thus allows FFP to continue for a reasonable period for facilities which do not fully meet HEW requirements, but which demonstrate a clear intent to meet all standards as promptly as possible, and under a fixed time schedule. We believe that the added flexibility left to the State agencies under the FFP requirement will work to the advantage of children and families in need of HEW assisted day care services. The requirement will provide State agencies with reasonable opportunities to work with facilities to improve their programs before HEW funds are withdrawn.

Day Care Center Requirements

Program of Activities

Proposed Rule

We proposed to require day care centers to establish a written program of age appropriate activities designed to promote children's social, intellectual, emotional and physical development. This requirement was intended to ensure that day care programs are not merely custodial, but that they contribute to all aspects of a child's development. Our proposed regulations required State agencies to make assistance available to centers on establishing a planned program of activities.

Comments

Some commenters urged us to mandate a specific educational program for all day care centers. Other commenters supported the proposed program of activities requirement and were in favor of allowing day care centers flexibility in the development of their activities programs. Some commenters suggested that we require activities to be "developmentally" appropriate rather than "age" appropriate because developmental levels and needs of children are not necessarily related to their chronological age.

Discussion

We have adopted the suggestions of commenters who recommended that we require centers to plan activities which are developmentally appropriate for children regardless of their chronological ages. We have not mandated a specific educational program for day care centers because we believe that it is important for day care centers caring for children in a variety of different communities to be free to design their programs to meet the individual needs and wishes of the children and families they serve.

Training

Proposed Rule

We proposed to require day care centers to provide to caregivers with no previous experience or training in child day care an on-site orientation on how to care for children in groups before the caregiver assumed any caregiving responsibilities. We also proposed to require that all caregivers regularly participate in specialized training related to child care. This specialized training was proposed to begin as early as possible, but in no case later than 6 months after the caregiver begins to work at the day care center.

We proposed two options for the State agency training requirement. First, we proposed that the State agency establish and implement a Statewide plan for providing or purchasing specialized training for day care center personnel. The second alternative proposed that this training plan address certain specified areas.

Comment

There was widespread support among commenters for a strong training requirement for day care center personnel. Commenters generally stressed that caregiver training is critical to high quality care.

Some commenters suggested that we mandate all caregivers to participate in a certain number of training hours per year whatever their educational background or experience.

Others argued that new caregivers should have at least some entry-level qualifications before they are permitted to care for children in groups.

Some commenters wanted more specificity and suggested that the final training requirement should establish different training requirements for each of three levels of day cae personnnel: aides, primary caregivers, and administrators. They suggested that aides receive at least a one-week, on-site, pre-service orientation at the center covering certain specified subjects immediately upon employment and before being given any caregiving responsibilities. They argued that without defining the orientation period in terms of its duration and subjects covered, there would be little or no assurance that the children being cared for by these new caregivers are adequately protected. They suggested that primary caregivers have a Child Development Associate (CDA) certificate or its equivalent. (A CDA certificate is a national professional credential awarded by the Child Development Associate Consortium to caregivers who have demonstrated competence in child care.) They suggested that directors and administrators participate in on-going, in-service training related to their responsibilities and that, if directors and administrators spend any part of their time in the direct care of children, they participate in specialized training as well.

Public comment was divided on the proposed alternatives for State agency training requirements. Some commenters favored mandating the areas to be covered by the State agency training plan. These commenters stressed that training is critical to quality care, and that the proposed areas to be covered by the training plan were the minimally necessary ingredients to an effective training program. Other commenters were against mandating the areas to be covered by the State training plan, stressing that States should be allowed the flexibility to fashion their own training programs according to their own needs and conditions.

Commenters expressed concern that the Department would mandate a strong training requirement at the same time the Administration was proposing to limit the amount of funds available to carry on training activities under the title XX Social Services program. Title XX funds are the major source of funding for HEW day care services and training.

Discussion

The Department agrees with the comments and research findings, particularly those in the National Day Care Study (NDCS), on the importance of specialized training for caregivers to quality day care. The Department has thus adopted a requirement in the final rule that all caregivers without a nationally recognized child development credential regularly participate in specialized training related to child care. One example of a nationally recognized credential is the Child Development Associate (CDA). The Regulation Guide will list others.

Although the Department is not requiring caregivers with a recognized child development credential to regularly participate in a specialized training program, these caregivers may wish to participate in such training voluntarily. Funds for child care training are limited. The Department believes that these funds would be best used for training those caregivers with the greatest need for training. (It should be noted that while it is true that there is a limitation on the amount of funds available to carry on training activities under the title XX program, that limitation takes into account the additional funds needed to carry out the training activities requested by the final rule.)

We have not mandated that caregivers participate in a prescribed minimum number of training hours per year. We do not believe that persuasive evidence exists which either suggests a need for any minimum hours requirements or indicates how many hours would be appropriate.

We have also adopted a requirement that State agencies establish and implement a statewide training plan for providing or purchasing specialized training for all caregivers. We have not mandated that State day care training programs address separately three levels of day care personnel—aides, primary caregivers and directors. We believe that such a requirement unnecessarily restricts the States' flexibility to fashion training programs according to their own particular needs and conditions. We have, however, specified the areas to be covered by the State training plan. We have not specified "entry level" qualifications for center caregivers in the final rule, nor have we required that center caregivers possess a Child Development Associate (CDA) credential. We do not want to reduce the supply of available caregivers by precluding the hiring of previously untrained or inexperienced individuals who can acquire needed skills by participating in on-going training provided under the Statewide training plan. Moreover, while we encourage caregivers to acquire the competence required for a CDA, we also recognized that this credential is not currently available to caregivers in all areas of the country. We do not wish to prevent experienced and competent individuals who lack a credential from being employed in day care centers.

However, the Department agrees with the commenters who argued that to ensure adequate protection of children in day care settings, new caregivers without previous experience or training need to have at least some training when they are first employed. Accordingly, we require a one week orientation session covering certain prescribed subjects for all newly hired caregivers. We have made the orientation period one week to ensure that it is adequate in scope. However, we do not require that it be carried out before the caregiver assumes caregiving duties, in recognition of the cost involved in such a requirement.

Nutrition

Proposed Rule

We proposed two options for a nutrition requirement for day care centers. Both options required centers to provide adequate and nutritious meals prepared in a safe and sanitary manner. One option specified when food was to be provided to children and included an option for breakfast at parent request. The proposed rule required State agencies to make available to day care facilities the services of a qualified nutrition specialist.

Comment

Some commenters argued that the requirements should specify the specific type and amount of food that must be provided to children in day care. Some commenters urged that we establish detailed requirements similar to those which govern the Child Care Food Program administered by the United States Department of Agriculture. Others suggested that we require meals and snacks to meet the Recommended Dietary Allowances developed by the National Research Council.

Some comments favored the option requiring that centers provide breakfast. However, other comments expressed concern over the added costs which a breakfast requirement would impose. In this regard, one commenter noted that proprietary centers, unlike non-profit facilities, do not qualify for assistance under the Department of Agriculture's Child Care Food Program and argued that it would be unfair and inconsistent to require proprietary centers to provide breakfast. Other commenters argued that parents, not day care centers should be responsible for providing breakfast to their children.

Discussion

We have chosen to adopt the option specifying when meals and snacks must be provided and requiring that breakfast be provided at parent request. Most centers providing care to HEW funded children currently provide breakfast with assistance from the Department of Agriculture Child Care Food Program. We believe that the benefits to be gained from ensuring that children receive an adequate breakfast outweigh the additional costs to providers which our requirement may impose. Medical research indicates that children who have not had an adequate breakfast are less able to participate in and benefit from normal daily activities. The need for a center provided breakfast is particularly important for low income children who might not otherwise receive an adequate morning meal. We have required breakfast only at parent request in order to relieve centers of cost burdens where a center supplied breakfast is not necessary.

We have not adopted the suggestions of some commenters that we mandate the specific type and amount of food provided to children in day care. Our requirement does not burden providers with a single detailed formula, but instead allows providers to exercise their own judgment about how best to plan meals and snacks which meet children's nutritional needs. HEW's Regulation Guide will suggest ways in which the requirement for adequate and nutritious meals and snacks may be met. Moreover, centers will have the services of a qualified food service specialist made available to them by the State agency.

Health and Safety

Proposed Rule

We proposed to require day care centers to have on record for each enrolled child in care, within 30 or within 60 days of enrollment, a statement from a licensed health practitioner that the child has received a health assessment and all immunizations appropriate to his or her age. The statement would indicate any special precautions for diet, medication, or activity; indicate that the immunizations are in accordance with recommendations of the U.S. Public Health Service or the Standards of the American Academy of Pediatrics (AAP); and indicate that the health assessment is in accordance with the Standards of the AAP or the National Recommended Health Assessment Plan under Medicaid's Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT). (A health assessment is the current medical term for a standard child health exam. It includes a physical exam, vision, dental and hearing screening and a health history.)

We proposed to require centers to have written plans to respond to illness and emergencies and to dispense medications to a child only upon the written consent of his or her parent and only in accordance with instructions from a parent or physician. We proposed to require centers to keep medications in labelled containers out of reach of children.

We also proposed to require centers to provide information to parents, as needed, concerning child health services available in the community, and to refer parents to the needed health services. In addition, we proposed to require centers to assist parents in obtaining needed health services and to follow-up on that assistance to ensure that the health services were secured.

We proposed two alternative State agency health requirements. Under one option, the State agency was required to provide information to day care centers about the availability of child health services in the community and about how the services may be obtained. Under the other, the State agency was also required to make arrangements which ensure that children in day care centers who are eligible for publicly funded health services receive those services when needed.

We also proposed to require State agencies to establish and maintain health standards for day care personnel.

Comment

Commenters generally supported the proposed requirement for immunization and health assessments.

Commenters were divided on the proposed 30 day—60 day options regarding the length of time between a child's enrollment in a center and when the center is required to have a statement on record indicating that the child has received his or her immunizations and health assessment. Those commenters preferring a 60 day period indicated that while they favor providing children with immunizations and health assessments as quickly as possible, as a practical matter it would be difficult for children to get immunizations and health assessments in 30 days. Other commenters argued that the health services could be obtained within 30 days of a child's enrollment in a day care center. Some commenters argued that children should have their immunizations before enrollment.

Some commenters asked that we spell out the standards for immunizations and health assessments, rather than incorporate those standards by reference. They also asked that a copy of a child's health records, rather than a statement from a physician indicating that the child has received his or her immunizations and health assessment, be kept at the day care facility. These commenters stressed that requiring a copy of the record is the best way to ensure that the children actually receive health services.

There was some controversy over provider and State agency responsibility for assisting parents in obtaining health services. Commenters disagreed on whether we should mandate day care centers to assist parents in obtaining health services and to follow-up on referrals to those services. Some stated that assistance and follow-up was not part of the day care service, was too

difficult and costly for providers to undertake, and that State social services agencies were better equipped to perform these functions. Other commenters, however, took the position that assisting parents in locating needed health services and following up to assure that these services are secured is an important part of the day care service and is something providers currently do. These commenters stated that parents of children in HEW funded child care have particular need for assistance in obtaining health services for their children.

Some commenters were opposed to requiring State agencies to make arrangements which ensure that children eligible for publicly funded health services receive those services. These commenters argued that making such arrangements would be burdensome and would involve intensive coordination of the staffs of different agencies, referral mechanisms and follow-up information between these agencies. Other commenters, however, were in favor of this requirement, stating that it was a reasonable and minimal requirement, specifically noting the availability of the EPSDT program and the importance of linking EPSDT with eligible children in day care. (Approximately 70% of the HEW funded children are eligible for EPSDT health services.)

Finally, some commenters asked that the Department include as requirements in the final rule the recommendations to day care centers (which were set forth in an appendix to the proposed rules) on additional health and safety measures centers could adopt.

Discussion

The final rule requires day care centers to have on record for each enrolled child, within 60 days of enrollment, a statement from a licensed health practitioner that the child has received a health assessment and all appropriate immunizations. This statement is not required for children whose parents object to the receipt of immunizations and health assessments on religious grounds.

The Department recognizes that there is often serious risk of infectious disease for young children cared for in groups, and intends to minimize this risk. We believe that early preventive health care is important to the normal development of children and that these requirements will assure that the health needs of the young children served in HEW funded day care centers are detected and attended to. Finally, we believe that the center will be better able to care for each child and to operate an effective day care program if it is aware of any health problems that may affect a child's participation.

The Department is incorporating by reference the standards of Medicaid's EPSDT program because the majority of the children eligible for HEW funded day care are also eligible for this early childhood health program and should be receiving their health services under this program. The standards of the AAP, which are similar to the EPSDT standards, are being incorporated by reference for the immunization and health assessments provided to children who are not eligible for Medicaid. AAP standards are widely recognized nationally as appropriate standards to follow in providing health care to young children. In its program guidelines for the final day care rules, the Department will describe in detail what the AAP standards specifically entail. We require centers to have a health statement on record within 60 days of a child's enrollment, and not 30 days, because we recognize the practical difficulties for parents and providers of requiring the immunizations and health assessments in a shorter period of time.

We have not required centers to keep a copy of the child's health record at the facility because the Department believes that a statement from a licensed health practitioner which also contains any special precautions for diet, medication or activity will provide adequate assurance that the children in care have received their immunizations and health assessments and that special precautions are taken by day care facilities for children with special health problems (e.g., diabetes, epilepsy, etc.).

The final rule requires centers to provide information to parents, as needed, concerning child health services available in the community. Centers must also assist parents in obtaining the needed services. As noted above, the Department is sensitive to the importance of early childhood preventive health care to the later development of children. In requiring centers to inform parents about available community health services and to assist parents in obtaining these services, the Department is attempting to ensure that the health needs of the children served are met.

The final rule requires State agencies to provide information to each day care center about the availability of child health services in the community and about how the services may be obtained. State agencies are also required to make arrangements so that HEW funded children in day care centers who are eligible for publicly funded health services, such as those provided under Medicaid's EPSDT program or the Title V Maternal and Child Health Program, receive those services when needed.

The Department believes that any burdens associated with requiring State agencies to inform day care centers about the availability of community health services and to make arrangements for providing the services are outweighed by the health benefits of such a requirement.

We are not asking State agencies to create new health resources for day care children. Rather, we simply require State agencies to make use of already existing publicly funded child health programs for the children in HEW assisted care who are already eligible for the programs. This approach should significantly increase the receipt of EPSDT and Title V (Social Security Act) Maternal and Child Health services by children presently eligible for these programs but not presently enrolled in them.

We do not include as requirements in the final rule the recommendations to day care centers set forth in the appendix to the proposed rule. (See 44 FR 34773, June 15, 1979.) While the Department strongly encourages centers to carry out these recommended activities, it does not believe that it is necessary for the Federal government to require these practices.

Physical Environment

Proposed Rule

We proposed that day care centers meet State and local requirements for licensing or approval and applicable State and local code requirements relating to health, sanitation, and building and fire safety. We proposed to require that State agencies ensure that centers comply with these State and local requirements and that State agencies establish and maintain standards which specifically address transportation, swimming and equipment safety.

Comment

Commenters generally supported the proposed regulation under which State agencies have the responsibility for specifying physical environment standards. However, some commenters favored uniform, Federally specified physical environmental requirements. Some commenters expressed concern over the adequacy of some State and local sanitation standards relating to the control of infectious diseases and urged the Department to address this problem in the final regulation. Commenters requested that HEW provide leadership

and assistance to the States in improving their present standards. Some suggested that HEW develop a model licensing code for day care facilities.

Discussion

We have adopted the suggestion that we address problems related to inadequate sanitation in child care facilities. The final requirement specifically directs State agencies in States without such standards to establish child care facility sanitation requirements and that day care centers caring for HEW funded children adhere to those standards.

We have not chosen to prescribe detailed Federal requirements for day care center sanitation, or for any other area relating to physical environment., Primary responsibility for regulating this area has been traditionally reserved for State and local communities. We believe that States and localities should retain responsibility for developing the specific content of day care licensing requirements. At the same time, the Department will assist States in developing and improving licensing requirements which adequately address health and safety in day care centers.

Social Services

Proposed Rule

We proposed to require centers to provide information to parents, as needed, concerning social services available in the community and to refer parents to needed social services. We also proposed that day care centers assist parents in obtaining the needed social service and follow-up to ensure that they were secured.

We proposed to require State agencies to provide information to each day care center about the availability of social services in the community and about how the services may be obtained. We proposed a further option requiring State agencies to make arrangements which ensure that children in day care centers who are eligible for Federal, State, or locally funded social services receive those services when needed.

Comment

There was little objection to requiring day care centers to inform parents about available community social services and to refer parents to these services when needed. Commenters were divided, however, on the additional proposed requirement that centers assist parents in obtaining needed services and follow-up to ensure that services were secured.

Commenters who were opposed to this additional requirement did not believe that assisting parents in obtaining needed social services should be part of the center's responsibility. These commenters stated that the responsibility to assist parents in obtaining social services and to follow-up to ensure that services are secured should be the responsibility of the State social services agency. They pointed out that requiring centers to take on this responsibility would be costly since they would have to hire more staff in order to carry this out.

Other commenters, however, argued strongly in favor of requiring centers to assist parents in obtaining needed social services. They argued that day care centers should not respond to destitute families or families in crisis with a simple referral These commenters stressed the importance of making a day care center a family support center—a place to resolve family problems that have an adverse affect on the child's development.

Still other commenters argued that centers should be required to actually provide social services to the families served. These commenters noted that many families of HEW funded children in day care, especially those from rural communities, have no place to go for needed social services other than to the day care center. Some commenters, however, stated that a Federal requirement for day care center delivery of social services would lead to duplication of services, to increased costs (in that it would become incumbent on the State to reimburse day care centers for social services staff), and to a Federal "backdoor" approach to mandating social services that the States had chosen not to provide themselves under their title XX social services program.

With regard to State agency responsibilities, there was little objection to requiring State agencies to inform day care centers about the availability of social services. However, commenters disagreed on the proposal to also require State agencies to make arrangements to ensure that eligible children receive publicly funded social services. Some commenters stated that this requirement was unnecessarily burdensome on the State agency and that State agencies should simply be required to provide information to centers about procedures for locating appropriate social services and procedures for utilization of these services. Other commenters, however, argued that, at a minimum, State agencies should have the responsibility to make arrangements to ensure that children who are eligible for publicly funded social services receive those services. They argued that this is especially true in light of the fact that the majority of HEW funded children in day care are eligible for social services under the title XX Social Services program, the same program that funds their day care services. Accordingly, these commenters argued that it makes sense for providers to refer eligible children and their families who have need for social services to the publicly funded social services agency in their State—the title XX agency—to ensure that arrangements are made to meet their needs.

Discussion

The final rule requires day care centers to provide information to parents, as needed, concerning social services available in the community and to refer parents to needed social services. The center is also required to assist parents in obtaining the needed services.

The final rule requires State agencies to provide information to each day care center about the availability of social services in the community and about how the services may be obtained. It also requires State agencies to make arrangements to ensure that HEW funded children in day care centers who are eligible for Federal, State and locally funded social services receive those services when needed.

The Department believes that State social services agencies should have the responsibility for ensuring that eligible children in day care and their families receive needed social services. State agencies have the resources and expertise to establish mechanisms to ensure that the social services needs of eligible families are met.

The Department also believes that centers should inform parents about and assist them in obtaining the needed services. The Department believes that is reasonable to require day care centers to assist parents in obtaining services, some of which may fall outside state agency purview (e.g., church-funded or privately supported services).

Parent Involvement

Proposed Rule

We proposed to require centers to inform parents about the day care program and to regularly offer parents opportunities to observe their children, meet with caregivers, and advise and comment on their children's needs. We also proposed to require centers to allow parents opportunities to see monitoring and evaluation reports made by Federal, State and local authorities,

and applications for Federal, State or local funds.

We proposed to require State agencies to provide information and technical assistance to day care facilities on working with parents and to offer parents their choice of facility whenever administratively feasible.

Comment

The proposed requirement on parent involvement generated a significant amount of public comment. Commenters generally supported the proposed rule, but wanted the Department to expand the proposed requirement to require day care centers to provide parents with a meaningful opportunity to participate in general program policy making and to allow parents unrestricted access to the center to observe their children. These commenters noted that, in light of some of the other proposed requirements which relax Federal involvement in the day-to-day operations of the facility, the need for effective parental supervision of each center is imperative. Moreover, commenters argued that strong parent involvement at the center nearly always results in better care for children at home. There were some commenters, however, who favored the requirement as stated, stressing the difficulty of getting parents involved in the day care program.

Discussion

We have adopted the proposed rule and added the further requirements that centers inform parents about the day care program and its policies and that they give parents meaningful opportunities to participate in general program policy making.

The Department agrees with those commenters who stressed the important benefits of allowing parents the opportunity to have a voice in center decisions about their child's day care program.

The requirement to provide parents with a meaningful opportunity to participate in general program policy making should not be unduly burdensome for the centers. It can be carried out in a number of ways, such as:

- Establishing a parent advisory group;
- Holding monthly, bi-monthly or bi-yearly meetings, at which day care operators describe the day care program and policies and seek parent comment;
- Notifying parents and seeking parent comment when operators face policy decisions such as whether to start a special education program, or how to respond to a fiscal crisis; or
- Including parent representation on the day care center's board of directors.

Group Composition

Proposed Rule

The proposed rules contained options both for limits on the size of the groups in which children are cared for and for staffing requirements. We proposed the following options for requirements governing group size:

Age	Group size
Birth to 2½ years	(Option A) 8.
	(Option B) 10.
2½ to 4 years	(A) 14.
	(B) 16.
4 to 6 years	(A) 18.
	(B) 20.
6 to 10 years	(A) 16.
	(B) 18.
10 to 14 years	(A) 20.
	(B) State requirements.

Our proposed rule set forth the following options for staffing requirements:

Age	Staffing requirements
Birth to 2½ years	(A) 1 adult to every four children (1:4).
	(B) 1:5.
2½ to 4 years	(A) 1:7.
	(B) 1:8.
4 to 6 years	(A) 1:9.
	(B) 1:10.
6 to 10 years	(A) 1:16.
	(B) 1:18.
10 to 14 years	(A) 1:20.
	(B) State requirements.

The group size requirements and staffing ratios were stated in terms of scheduled enrollment, rather than actual attendance. According to research study findings, on any given day the absentee rate among day care center children is approximately 12%.

In addition, we set forth in the preamble to the proposed rule staffing ratios from the Child Fire Life Safety Code of the National Fire Protection Association as a third alternative. Those ratios are:

Age	Staffing requirements
Birth to 2 years	1:3
2 to 3 years	1:5
3 to 5 years	1:10
5 to 7 years	1:12
7 and older	1:15

We proposed that the group size requirements apply at all times of the day except during lunch, naptime, and special activities, such as field trips and playground activities.

We proposed two alternatives for a requirement relating to how the staffing requirements must be met. Under one option they would be met at all times of the day. Under the other option the staffing requirements would not have to be met at any given point during the day. Rather, a center meets the requirements if, on the average for the day, it schedules the correct amount of staff time. For example, a center could schedule less than the required number of staff hours during one part of the day, if it scheduled a correspondingly greater number of staff hours during another part of the day.

We also proposed that staffing requirements could be met by averaging the staff required for the 2½ to 4 and 4 to 6 year old age categories and for the 6 to 10 and 10 to 14 year old age categories. (This approach is referred to as assigning staff on a centerwide as opposed to a group by group basis.) The proposed rule did not allow this method to be used in assigning staff for children under 2½ years old.

To clarify what staff time could be counted in calculating staffing requirements, we proposed, as one alternative, to allow all staff hours spent providing direct care to children, including time spent by volunteers, and non-caregiving staff to be counted. We also included an option under which volunteer hours could be counted only if the volunteer regularly spends at least 10 hours per week working directly with children. Under either alternative, the time spent working directly with children by any volunteers or non-caregiver staff could not be counted unless they participated in specialized training in child care.

Finally, we included a proposal which addressed group size and staffing requirements for groups containing children of different ages. Under the proposal, where a center director placed a child with a group of older children (for example, a 2 year old with 3 and 4 year old children) the group size and staffing requirements of the youngest child (or 2 year old) apply if the youngest children make up more than 20 percent of the group. The requirements for the next older age group (or 3 year olds) would apply if the youngest children make up less than 20 percent of the group.

Comment

Commenters were divided on the proposed group composition requirements. Those commenters favoring the stricter (Option A) group size and staffing requirements stated

that numerous studies, including the NDCS, show that consistent and close interaction with adults is necessary in order to promote the proper development of young children. These commenters stressed that this interaction is particularly important for the HEW funded children in care, who often suffer from the well documented effects of poverty. Commenters also stressed the strong relationship, identified in research findings, between positive early childhood day care experiences and a child's successful progress in school.

Some commenters opposed a 1:4 ratio for infants and toddlers, arguing that the minimally acceptable staff-child ratio for this group is 1:3. Others stated that even a 1:3 ratio may not protect these children from harm and promote their normal development and urged that we require one adult for every two children. Commenters supporting a 1:3 ratio pointed out that the Child Fire Life Safety Code recommends this ratio for children under two years, and noted that the proposed HEW rules do not require adherence to the same exhaustive list of structural conditions in the fire safety code. They also argued for a 1:3 ratio based on developmental concerns. Citing the work of several child development experts, the commenters pointed out that babies need to be held, touched, fondled and fed in someone's arms, and that without such interaction, the child's cognitive, physical, social and emotional development will suffer.

Commenters favoring the stricter ratio and group size proposal for three to six year olds stated that they considered even the stricter proposals minimal in terms of meeting the developmental needs of the children in care. Some commenters urged that we adopt even stricter ratios for school age children than were proposed and suggested that we require that there be two caregivers with groups of school aged children at all times. They stated that children of this age need individualized care and supervision after spending a full day in a school classroom.

Other commenters supported the weaker group size and staffing requirements in option B for all age groups. These commenters stated that the stricter requirements are too costly, require more staff than are currently found in centers serving HEW funded children, and would reduce the available supply of care at a time when the country is experiencing a rapidly increasing demand for day care services. They stressed that the need for day care services is most acute for single parent, low income families who are the primary recipients of HEW funded care.

These commenters noted that many States already experience great difficulty in finding centers to serve HEW funded children, that there are long waiting lists, and that if more money is not forthcoming to pay for the stricter requirements these States would experience even greater difficulty. Some commenters noted that the increased costs of complying with the stricter ratios would prompt State agencies to refuse to provide services under HEW's major day care services program—the title XX Social Services program.

Commenters supporting the weaker ratios generally argued that adoption of the stricter ratios will cause costs to increase for the privately funded children in the non-complying facilities serving HEW funded children, and will thus also promote the segregation of HEW funded children from the private pay children whose parents will not be able to afford the increased costs.

Comments were also divided on the question whether the staffing requirements should apply at all times of day or be averaged over the course of the day, and on whether the staffing requirements could be averaged centerwide across different age categories or apply on a group by group basis. Those commenters who opposed allowing staffing requirements to be met by averaging the required number of staff over the course of the day and across different age categories stated that doing so would both negate the effectiveness of the requirements and expose children to potentially unsafe situations. They also stated that children would not have the consistent on going child-adult relationship that they need for normal development. Others stated that the flexibility to average staff over the course of the day and across different age groups is necessary to accommodate the constantly varying needs of centers.

Commenters disagreed over whether volunteers should be counted only if they spend at least 10 hours a week at the centers. Those that favored the 10 hour restriction stressed that children need consistent care. Other commenters argued for no restriction on volunteer hours, citing the need for flexibility in using volunteers.

Commenters generally supported the proposal concerning mixed age categories, though some felt the youngest child in the group should determine the appropriate group size.

Some commenters were particularly opposed to the proposed 1:4 ratio for infants and toddlers, arguing that it is unnecessarily stringent and costly. They argued that the demand for infant care is increasing at a faster rate than for all other care, and that the demand far exceeds the available supply. Commenters who favored weaker ratios for three to six year olds said that the stricter ratios would be too costly, and that adequate care could be provided to children of this age by fewer adults than we proposed. Supporters of the weaker ratios for school age children said that children are in larger groups with fewer adults each day in school and do not need more adult attention after school.

Finally, some commenters argued that specification of staffing requirements should be left to the discretion of State agencies. They argued that the States are more attuned to the needs of different local communities.

With respect to the group size requirements some commenters thought the requirements should apply at all times of the day. Most commenters favored applying them at all times of the day, except during lunch, naptime, and special activities, and suggested the addition of arrival and departure time to accommodate current center practices.

Comments were divided on the issue of determining compliance with the group size and staffing requirements on the basis of scheduled enrollment or actual attendance. Some comments stated preference for using actual attendance because many States reimburse on the basis of actual attendance. Some commenters pointed out that certain States reimburse on the basis of scheduled enrollment and suggested that method.

Discussion

The final rule requires the following group size limits and staff-child ratios.

Age of child	Group size based on enrollment*	Group size based on attendance
Birth to 2 years	6	6
2 years	12	12
3 to 6 years	18	16
6 to 10 years	16	14
10 to 14 years	20	18

Age of child	Staffing requirement enrollment*	Staffing requirement attendance
Birth to 2 years	1:3	1:3
2 years	1:4	1:4
3 to 6 years	1:9	1:8
6 to 10 years	1:16	1:14
10 to 14 years	1:20	1:18

*In each case the enrollment numbers are based on a 12% absentee rate and have been rounded off to the nearest whole number.

The final rule requires that group size and staffing requirements be met either on the basis of scheduled enrollment or actual attendance, as determined by each State agency. The rule requires

that each State use the method that matches its reimbursement system.

The age categories in the final regulation are different from those in the proposed rule. The final age categories correspond to the groupings suggested by the National Day Care Study (NDCS) except that we have divided the under three year old category to make a separate requirement for infants and toddlers in recognition of their special needs. With respect to the 3 to 6 year old children, the NDCS concluded that the requirements should be the same for all children in this age group.

The Department has applied the staffing requirements suggested by many child development experts for children under two years old. We have adopted the stricter of the two options proposed in the Notice of Proposed Rulemaking for two year old children. The Department agrees with commenters who stressed the special needs of children under three years old in day care centers. We believe it is critical to ensure that these young children receive the close attention and nurturing necessary for their healthy development and to ensure that there are enough caregivers present to protect their physical safety. The Department recognizes that these ratios, particularly those for infants, will be costly, but in balancing these costs with the needs of this group, we believe that the strict ratios are justified.

We also believe that the 1:8 requirement for 3 to 6 year old children appropriately balances the competing concerns of cost and quality. The NDCS concluded that, for children between 3 and 6 years old, staffing requirements in the current Federal day care regulations could be relaxed without a reduction in the quality of care, if certain limits were placed on the size of the groups in which children were cared for. The NDCS recommended three alternative ratios based on actual attendance—1:7, 1:8, and 1:9. Each recommended ratio is less stringent than the current Federal requirement.

The NDCS found that the 1:8 ratio would provide for nearly the same level of positive effects on the development of the children in care as the 1:7 ratio, and would yield more of these positive effects than a ratio of 1:9.

We believe a ratio of 1:8 will have a smaller negative effect on the available supply of care than a ratio of 1:7. The NDCS indicates that on a nation-wide basis may centers currently comply with ratios which are at least as strict as the required 1:8 ratio.

However, the Department is aware that individual States and day care providers may have difficulties in complying with the requirements. Accordingly, we will allow the staffing requirements to be waived for centers that serve a small number of children whose care is paid for with HEW funds. We will also extend the effective date of the staffing requirements for States in which substantial numbers of providers do not currently meet the staffing requirements. (These provisions are discussed in greater detail below.)

The Department agrees with commenters who said that school aged children need individual attention after school. While we felt it would be unnecessarily restrictive to require that there be two caregivers with each group, we did adopt the stricter group size and ratio requirements. Although we are not required by law to adopt the stricter ratios, these ratios are consistent with those established by Congress in the title XX statute for children of this age.

Staff required under the rule must be present with children at all times of the day. We agree with commenters who point out that not requiring staff to be present at all times undercuts the effectiveness of staffing requirements.

We have included several provisions to allow centers as much flexibility as possible to meet the staffing requirements in cost effective ways. The regulation will allow a center to arrange its staff for children two years of age and older on a centerwide basis. This means, for example, that a director could assign a caregiver assigned to care for three year olds to the two year old group as needed. The regulation will also permit centers to reassign infant caregivers during naptime. The Department believes that these provisions accord day care centers needed flexibility to adjust their staffing patterns in accordance with varying needs of the children in care. Under the requirement, children will not be left unattended. However, a center will not be penalized if staff are arranged based on the individual daily needs of the children.

Noncaregiving staff may be counted when they are providing direct care to children, and not performing their noncaregiving duties, if they participate in specialized child care training. Volunteers may be counted towards meeting the staffing requirements if they work 10 hours a week or more and participate in specialized child care tarining. By requiring that volunteers work 10 hours a week or more, we encourage consistency of care for the children.

Day care centers are required to meet the group size requirements at all times of the day, except during arrival and departure times, meals, naptime and special activities—such as field trips and playground activities. Arrival and departure times were added to the list of exceptions, because we recognize that child attendance is often unpredictable at these times of the day and that day care centers could benefit from this added flexibility.

The final rule adopts the provision proposed for mixed age groups. When children are in mixed age groups, group size shall be based upon the age of the youngest child in the group. If children in the youngest age category make up less than twenty percent of the group, the group size for the next highest age category shall be required. In this way the rules accomodate day care programs which arrange children in mixed age groups, and, at the same time, protect and promote the development of the youngest children in the group.

We have also added a similar requirement for staffing for mixed age groups including children under two years of age.

Day Care Home Requirements

Proposed Rules

We proposed a set of requirements for day care homes which generally corresponded to those proposed for day care centers. (A day care home is a private residence in which care is provided to a small group of children.) They addressed: Program of Activities for Children, Training, Nutrition, Health and Safety of Children in Care, Physical Environment, Social Services, Parent Involvement and Group Composition.

Comment

Commenters were divided on the issue of regulating these facilities. Some commenters supported the rules we proposed for day care homes. Others suggested that not enough is known about home day care costs, and recommended that HEW reconsider the issue of regulating any aspect of home day care. Other commenters supported separate HEW requirements for day care homes, but stressed that they should be different from day care center regulations. Some commenters noted that home day care is different from center care and argued that the proposed home requirements were too "center oriented."

For example, they stated that it is inappropriate to require homes to have a written daily plan of activities because daily activities in a day care home are more spontaneous than in centers. They specifically asked that we minimize paperwork for day care homes, and said that if we overregulate, providers will refuse to serve HEW funded children.

Some commenters asked that we reconsider our proposed day care home staffing requirements and pointed out that in States which currently allow providers to care for more children than permitted by our proposals, we could reduce the supply of care. These commenters were particularly concerned about the available supply of care in day care homes for school aged children in need of care after school. Commenters generally favored our proposed training requirement and stressed the need for training at convenient times. Commenters generally supported the proposed nutrition, health, physical environment, social services and parent involvement requirements.

Discussion

The Department is issuing separate requirements for day care homes and has made some revisions to the proposed rules in order to be more responsive to the unique characteristics of home day care. We agree with those commenters who pointed out that home day care differs from center care in many respects. It is more informal than center care and is provided by individual women and men who take care of a few children in their own homes. (The average day care home cares for three or four children.) At the same time, we think that Federal requirements are needed to protect the health and safety of children receiving care in day care homes and to promote their normal development. We are currently conducting a study of home day care and if we find that revisions to the requirements are necessary we will make them.

The final rule requires day care home providers to establish a daily program of activities for children. However, the activities plan need not be in writing. We agree with commenters who pointed out that requiring a written plan would be burdensome to home day care providers. The State agency will, however, be required to provide assistance to day care homes in establishing an appropriate daily program of activities to ensure that the developmental needs of the children in home day care are met.

All home caregivers must comply with the same training requirements as are required for caregivers in centers (see discussion above) and the State agency is required to make training available to all home caregivers.

The final rules for day care homes in the areas of health, safety, physical environment, social services, and parental involvement will remain the same as the proposals in these areas published in the Notice of Proposed Rulemaking.

The final nutrition rule for day care homes is the same as the center nutrition requirement. That is, homes are required to provide adequate and nutritious meals. Homes must provide breakfast at parent request, a mid-morning snack, lunch, a mid-afternoon snack and dinner when children are in care during evening hours.

The group composition requirements will remain the same as proposed in the Notice of Proposed Rulemaking except that two additional school age children may be cared for in homes in which no infants are being cared for. This addition should allow for an expanded supply of after school day care for school age children, which was consistently supported by public comment.

The Department believes that these requirements will ensure quality care for children in day care homes. At the same time, they will allow homes greater flexibility in providing day care services and will not be unduly burdensome.

State Agency Administration

Monitoring

Proposed Rules

We proposed to require States to review each facility's compliance with Federal, State and local day care requirements at least annually. The proposed rule did not mandate that a State agency make an on-site visit to each facility in the course of its annual review, but left to each State agency the decision on when regular on-site visits would be scheduled as part of its monitoring effort. In addition, we proposed an option under which a State agency would be required to make an on-site visit to a facility whenever questions had been raised about the facility's compliance, for example, by a complaining parent.

Comment

Some commenters suggested that we require on-site monitoring visits to all day care facilities at least annually. Commenters stresed that on-site monitoring provides the most effective means of enforcing the requirements. Other comments argued that visiting all day care facilities once a year would be too costly and cumbersome. Some commenters recommended that we require States to visit a random sample of providers each year. Other commenters favored the option under which, in addition to regular compliance reviews, we mandated special visits to facilities whose compliance with the requirements was in doubt.

Discussion

The final regulation will require that States visit the day care facilities in the State at least once every three years. In adopting this requirement we do not mean to discourage a State agency from visiting all facilities either annually (or more frequently) if it chooses to do so. We strongly encourage States to include regular on-site visits to as many facilities as possible in their day care monitoring efforts. However, we do not wish to burden States with a more frequent requirement on the basis that States should be given as much flexibility as possible in using their monitoring resources. We have also adopted in our final regulations a requirement that State agencies make a special monitoring visit whenever there is reason to believe, based on information from parents or from any other source, that a facility is out of compliance with Federal, State or local day care requirements.

Rates of Payment

Proposed Rule

We proposed to require State agencies to take into account the costs to a day care facility of meeting HEW requirements in establishing payment rates for day care services which the facility provides to HEW funded children.

Comments

This requirement was supported by commenters. Commenters urged that we also require State agencies to make public their rate setting processes and to involve parents and providers in those processes. Other commenters requested that HEW develop model rate setting procedures and provide technical assistance to State agencies in this area.

Discussion

Like the proposed rule, the final regulation requires State agencies to take into account the costs associated with meeting HEW requirements in setting their day care payment rates. In addition, in the final regulation, we have adopted the suggestion that State agencies be required to make available to the public upon request the basis for their day care payment rates, and the procedures used in determining the rates. We have not required that State agencies involve providers and parents in the rate setting process, but have left the details of that process to the discretion of State agencies responsible for administering HEW day care funds.

We do not wish to intrude into an area traditionally within the domain of the States by dictating either the

amounts which States must pay to providers or the specifics of the procedures which States employ in setting payment rates. However, we encourage State agencies to recognize the costs which facilities incur in providing care under HEW regulations in determining how much they will pay providers, and to set reasonable rates which are sufficient to cover those costs in an efficiently operated facility.

HEW's Regulation Guide will address rate setting issues and provide further suggestions for State agencies.

State Agency Advisory Council

Proposed Rule

We proposed to require that the State agency establish a Day Care Advisory Council to advise on the interpretation and implementation of the day care requirements.

Comment

There was widespread support for this proposal. Commenters recommended that HEW specify the membership for the councils and require that they include representation from parents, day care center and home providers and public agencies. Commenters asked that we also mandate the functions of the Advisory Councils. Some suggestions for appropriate Advisory Council functions included participation in developing the statewide training system, in the granting of waivers, in determining reasonable rates of reimbursement, and in setting appropriate time periods for plans of correction. Commenters said that the State Agency Advisory Councils could play a key role in assuring that the regulations are properly implemented. Commenters who opposed this proposal said that the Councils would merely become another layer of bureaucracy.

Discussion

The final rule requires that the State Agency establish a Day Care Advisory Council to advise on the implementation of the HEW day care requirements and that the Council include representation from parents of HEW funded children, day care center and home providers and relevant public agencies.

The Department agrees that it should assure a role for representatives of these groups in advising the State agency on the implementation of HEW requirements. However, the Department has chosen not to mandate the functions of the Councils. We leave State agencies and Day Care Advisory Councils free to determine their own priorities according to the conditions and needs of each State.

State Agency Waiver

Proposed Rule

We proposed to allow State agencies to waive staffing requirements for a day care center serving 10% or fewer HEW funded children, if the center meets all applicable State staffing requirements and all other HEW requirements including those governing group size.

Comment

Commenters favored allowing waivers of Federal staffing requirements in centers serving a small percentage of HEW assisted children as a means of maintaining or expanding the available supply of day care opportunities for HEW funded children by encouraging centers, which, because of the costs of the staffing requirements, might otherwise not be willing to enroll any of these children.

Some commenters urged the Department to increase the proposed 10% limit in the proposed waiver provision, suggesting that a 30–50% limit would be more appropriate.

Other commenters suggested that the Montessori Method of child care be specifically exempted from meeting the proposed ratio and group size requirements. These commenters stressed that the Montessori Method is a unique method of child care and early childhood education which, in practice, does not accept the traditional theory of early childhood development that preschoolers in day care need to be in small groups for their normal development.

Instead, these commenters argued that well established Montessori classrooms for children 2–6 years of age are normally able to serve between 25 to 35 children. Normally, one highly trained teacher and an aide are responsible for a single group. They say that additional, untrained adults in the classroom can be disruptive to the carefully prepared environment.

Discussion

We have decided to allow State agencies to waive the staffing requirements in centers in which not more than 20% or 10 (whichever is lower) are HEW funded children. The waiver provision will allow State agencies the flexibility to place some children in centers not meeting HEW staffing rules where day care services would otherwise not be available. We agree with commenters who suggested that a limit greater than 10% was needed to provide a useful mechanism for making day care services for HEW funded children more widely available.

We have not specifically exempted Montessori programs which serve HEW funded children from meeting the staffing requirements because we cannot justify singling out one specific system of care to the exclusion of others. We do not expect this to have an unduly adverse effect, however, because these programs serve only a relatively few HEW funded children nationwide and they can continue to qualify to serve these children under the general State waiver authority specified above.

Effective Date

Discussion

All the requirements will take effect six months from their publication date except for the training requirement and the requirements that day care homes inform parents about and refer them to health and social services which will be effective on April 1, 1981. We have allowed additional time for the new training requirement because we recognize that the States need extra time to develop their statewide training plans, and to make training opportunities available to caregivers. We have allowed additional time for day care homes to meet the information and referral requirements in the health and social services provisions to give these caregivers adequate time to learn about available resources and about how to provide effective referral for parents of children in their care.

The effective date of day care center group composition requirements may be extended on a State-by-State basis for a period of time not to exceed two years. Extensions will be granted by the Secretary based on State agency submissions, which must be made within six months of the date of publication of the rules. State agency showings must demonstrate that substantial numbers of HEW children within the State are cared for in day care centers meeting group composition requirements which are less stringent than HEW requirements and that more time is needed to avoid abrupt displacement of these children from day care programs. In States which can justify the need for a postponement of the effective date, we will allow a gradual phasing in of the requirements in the State's HEW funded center over a specific period which does not exceed two years.

We expect that during the phase-in period the percentage of HEW funded children in centers which meet the HEW group composition requirements would continue to increase according to a fixed time schedule approved by the Secretary. At the end of the phase-in

period, every center serving HEW funded children within a State (which has not been granted a waiver by the State agency under § 71.64) will be subject to the new HEW group composition requirements.

Regulatory Analysis

In accordance with the requirements of Executive Order No. 12044, the Department has prepared a Regulatory Analysis of these final rules. This analysis is available from the Department.

Approved: March 12, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

The Department of Health, Education, and Welfare revises Part 71 of Title 45 of the Code of Federal Regulations, as set forth below:

PART 71—HEW DAY CARE REQUIREMENTS

Subpart A—General

Sec.

71.2 Basis and purpose.
71.4 Definitions.
71.6 Compliance with nondiscrimination requirements.
71.8 Availability of Federal financial participation.

Subpart B—Day Care Center

71.10 Program of activities for children.
71.12 Training.
71.14 Nutrition.
71.16 Health and safety.
71.18 Physical environment.
71.20 Social services.
71.22 Parent involvement.
71.24 Group composition.

Subpart C—Day Care Home

71.30 Program of activities for children.
71.32 Training.
71.34 Nutrition.
71.36 Health and safety.
71.38 Physical environment.
71.40 Social services.
71.42 Parent involvement.
71.44 Group composition.

Subpart D—State Agency Administration

71.56 Monitoring.
71.58 Rates of payment.
71.60 Future review of day care regulations.
71.62 State Agency Advisory Council.
71.64 State Agency waiver.
71.66 Effective date.

Authority: Title XX of the Social Security Act, Section 2002(a)(9)(B), 42 U.S.C. 1397a(a)(9)(B); and Title V of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (Headstart-Follow Through Act), Section 582(d), 42 U.S.C. 2932(d).

Subpart A—General

§ 71.2 Basis and purpose.

(a) This part sets forth the requirements that State agencies and day care facilities must meet as the conditions for the receipt by State agencies of Federal Financial Participation (FFP) in the costs of child day care services under the following HEW assisted programs:

(1) Social Security Act.

(i) Title IV–A (Social Services to Guam, Puerto Rico, the Virgin Islands, and the Northern Marianas; and the Work Incentive Program (WIN)).

(ii) Title IV–B (Child Welfare Services).

(iii) Title XX (Social Services);

(2) Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963;

(3) Developmental Disabilities Services and Facilities Construction Act of 1970;

(4) Developmentally Disabled Assistance and Bill of Rights Act of 1975 (Developmental Disabilities Special Projects).

(b) This part implements Title XX of the Social Security Act, Section 2002(a)(9)(B), 42 U.S.C. 1397a(a)(9)(B), and Title V of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (Headstart-Follow Through Act), Section 582(d), 42 U.S.C. 2932(d). These sections authorize the Secretary to prescribe requirements to govern the provision of day care services under HEW assisted programs.

§ 71.4 Definitions.

In these regulations, the term:

Attendance means the number of children present at the facility.

Caregiver means a person who provides direct care, supervision, and guidance to children in a day care facility.

Day care means the care, supervision, and guidance of a child, on a regular basis, for periods of less than 24 hours per day, in a place other than the child's own home.

Day care center means a place in which day care is provided to more than 12 children.

Day care home means a private residence in which day care is provided to 12 or fewer children.

Early and Periodic, Screening, diagnosis and Treatment (EPSDT) means a component of each State's medical assistance program mandated under title XIX of the Social Security Act (Medicaid) which provides preventive child health services to eligible low income children.

Group means a cluster of children assigned to one or more caregivers.

Group size means the total number of children assigned to one or more caregivers.

Scheduled Enrollment means the number of children expected to be in attendance for any day or for some period of time during the day.

State Agency means the agency that receives Federal funds for day care and that has ultimate responsibility for the conduct of the day care services program.

§ 71.6 Compliance with nondiscrimination requirements.

The following HEW regulations apply to services provided under this part:

45 CFR Part 80—Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health, Education, and Welfare's Implementation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

§ 71.8 Availability of Federal financial participation (FFP).

(a) FFP is available in the costs of child day care services, only if the care meets the requirements of this part.

(b) The care is considered to meet the requirements of this part only if:

(1) It is provided by a facility which:

(i) Meets State standards for licensing, registration, certification, or approval; and

(ii) Has been approved by the State agency as meeting the requirements of this part, or has submitted to the State agency a plan of correction acceptable to the State agency for any requirement that the facility has been found not to meet. The State agency may accept a plan of correction only if the plan specifies a reasonable time period for meeting the requirements of this part. The facility must meet the requirements of this part within the time period specified in its plan of correction; and

(2) The State agency meets its requirements as provided in this part, or the State agency has submitted to the Secretary a plan of correction acceptable to the Secretary for any requirement that the State agency has been found not to meet. The Secretary accepts a plan of correction only if the plan specifies a reasonable time period for meeting the requirements of this part. The State agency must meet the requirements of this part within the time period specified in its plan of correction.

Subpart B—Day Care Center

§ 71.10 Program of activities for children.

(a) *Day Care Center.* A day care center shall establish a planned program of developmentally appropriate activities which promotes the intellectual, social, emotional, and physical development of the children it serves. The planned program shall be in writing and shall be made available to parents. The plan shall contain a description of activities children engage in and how those activities meet their developmental needs, including the special needs of children in the center who are multilingual or handicapped.

(b) *State Agency.* The State Agency shall provide information and technical assistance to day care centers on establishing a planned program of developmentally appropriate activities.

§ 71.12 Training.

(a) *Day Care Center.* (1) A day care center shall provide to newly hired caregivers a one week on-site orientation to the day care program during the first week of employment. The orientation must address at a minimum—

(i) Emergency health and safety procedures at the center;

(ii) Any special health or nutrition problems of the children assigned to the caregiver;

(iii) Any special developmental needs of the children assigned to the caregiver;

(iv) The planned program of activities at the center; and

(v) Meal patterns at the center.

(2) Each caregiver without a nationally recognized child development credential appropriate for the age of the children cared for by the caregiver shall regularly participate in specialized training related to child care. Caregivers shall begin to participate in specialized training within a reasonable period of time after April 1, 1981. Caregivers hired after April 1, 1981 must begin to participate in training within six months of employment.

(b) *State Agency.* (1) The State Agency shall establish and implement a statewide plan for providing or purchasing training for all center caregivers. The plan must specify the nature and extent of the training required for caregivers and address the following subjects:

- Child Growth and Development.
- Child Care Programming and Activities.
- Health and Safety Practices.
- Nutrition and Good Eating Habits.
- Design and Use of Physical Space.
- Working with Parents.
- Community Health and Social Service Resources.
- Day Care for Multilingual Children.
- Day Care for Handicapped Children.
- Handling Behavior Problems.

(2) The State Agency shall periodically assess its statewide training program for center caregivers and report to the Secretary on the effectiveness of this program by March 30, 1984.

§ 71.14 Nutrition.

(a) *Day Care Center.* A day care center shall provide adequate and nutritious meals prepared on a safe and sanitary manner. Breakfast shall be provided at parent request. Lunch and mid-morning and mid-afternoon snacks shall be provided. When children are in care during evening and night hours, the center shall provide an evening meal.

(b) *State Agency.* The State agency shall make the consultative services of a qualified nutritionist or food service specialist available to day care centers.

§ 71.16 Health and safety.

(a) *Day Care Center.* (1) A day care center shall have on record for each enrolled child whose parents do not object on religious grounds, a statement from a licensed health practitioner that—

(i) Describes any special precautions for diet, medication, or activity;

(ii) States that the child has received immunizations in accordance with recommendations of the U.S. Public Health Service or the American Academy of Pediatrics; and

(iii) States that the child has received a health assessment in accordance with the standards of the American Academy of Pediatrics, or the EPSDT National Recommended Health Assessment Plan.

(2) The statement for each child must be on record within 60 days of enrollment, and must be updated according to the recommended schedule for routine health supervision of the American Academy of Pediatrics, or the EPSDT National Recommended Health Assessment Plan.

(3) A day care center shall have plans to respond to illness and to emergencies including fire, serious injury, and ingestion of poison. The plans must be in writing.

(4) A day care center shall not dispense medications to a child without the written consent of his or her parent. All medications shall be dispensed in accordance with instructions from a parent or physican. Medications shall be kept in labelled containers out of the reach of children.

(5) A day care center shall provide information to parents as needed concerning child health services available in the community, and shall assist parents in obtaining the health services.

(b) *State Agency.* (1) The State agency shall provide information to each day care center about the availability of child health services in the community and about how the services may be obtained.

(2) The State agency shall establish and maintain health standards for day care center personnel.

(3) The State agency shall make arrangements so that HEW funded children in day care centers who are eligible for Federal, State, or locally funded health services receive those services when needed.

§ 71.18 Physical environment.

(a) *Day Care Center.* A day care center shall meet:

(1) State and local requirements for licensing or approval;

(2) State and local codes relating to health, sanitation, and building and fire safety; and

(3) State day care center standards for transportation, swimming, and equipment safety.

(b) *State Agency.* The State agency shall ensure that standards for day care centers that specifically address sanitation, and transportation, swimming, and equipment safety exist in the State.

§ 71.20 Social services.

(a) *Day Care Center.* A day care center shall provide information to parents, as needed, concerning social services available in the community and shall assist parents in obtaining the social services.

(b) *State Agency.* (1) The State agency shall provide information to each day care center about the availability of social services in the community and about how the services may be obtained.

(2) The State agency shall make arrangements so that HEW funded children in day care centers who are eligible for Federal, State or locally funded social services receive those services when needed.

§ 71.22 Parent Involvement.

(a) *Day Care Center.* A day care center shall—

(1) Provide parents with opportunities to observe the center and to discuss their children's needs before enrollment;

(2) Offer parents unlimited access to the day care center to observe their children;

(3) Regularly offer parents opportunities to meet with caregivers to discuss their children's needs;

(4) Regularly exchange information with parents about their children and the day care program;

(5) Offer parents, individually and as a group, meaningful opportunities to participate in general program policymaking; and

(6) Provide parents upon request any monitoring reports or evaluations of the center prepared by and received from Federal, State, or local authorities.

(b) *State Agency.* (1) The State agency shall provide information and technical assistance to day care centers on working with parents.

(2) The State agency shall offer parents their choice of day care facility whenever administratively feasible. The State agency shall make a copy of the HEW day care requirements available to parents of children in HEW-funded day care.

§ 71.24 Group composition.

(a) *Day Care Center.*—(1) *Group Size.* (i) A day care center shall meet the following group size requirements at all times of the day, except during arrival and departure times, meals, naptime and special activities such as field trips and playground activities:

Age of child	Maximum group size scheduled enrollment	Maximum group size attendance
Birth to 2 years	6	6
2 years	12	12
3 to 6 years	18	16
6 to 10 years	16	14
10 to 14 years	20	18

(ii) For mixed age groups, a day care center shall meet the group size requirements for the age of the youngest child in the group, if children in the youngest age category make up 20% or more of the group. If children in the youngest age category make up less than 20% of the group, the group size requirement for the next highest age category must be met.

(iii) If more than one group occupies a single room, each group must have its own clearly defined physical space.

(2) *Staffing Requirements.* (i) A day care center shall meet the following staffing requirements:

Age of child	Staffing requirement scheduled enrollment	Staffing requirement attendance
Birth to 2 years	1:3	1:3
2 years	1:4	1:4
3 to 6 years	1:9	1:8
6 to 10 years	1:16	1:14
10 to 14 years	1:20	1:18

(ii) A day care center shall calculate the required staff hours by dividing the total child hours for each age category served by the age appropriate staffing requirement.

(iii) A day care center shall ensure that required staff are present with children at all times, except for normal breaktimes.

(iv) Staffing requirements may be met for children aged two years and older on a centerwide basis. (For example, if a center determines that it needs 4 caregivers to meet the staffing requirement for its 2 year old children, and 10 caregivers for its 5 years old children, the center would meet the staffing requirement so long as it had 14 caregivers assigned to care for children in both categories. The center need not necessarily assign 4 caregivers to care for its 2 year old children, nor assign 10 caregivers to care for its 5 year old children.)

(v) A day care center shall meet the staffing ratio requirement for each group of children under two years of age at all times, except naptime.

(vi) For mixed age groups which include children under two years old, a day care center shall meet the staffing requirements for the age of the youngest child in the group, if children in the youngest age category make up 20% or more the group. If children in the youngest age category make up less than 20% of the group, the staffing requirement for the next highest age category must be met.

(vii) At least one caregiver shall be present with children at all times.

(viii) Hours spent providing direct care to children by a volunteer may be counted towards meeting the staffing requirements, if the volunteer works at least 10 hours a week and complies with the traning requirement at Section 71.12.

(ix) Hours spent providing direct care to children by a staff member who otherwise performs non-caregiving duties may be counted towards meeting the staffing requirements, if the staff member complies with the requirement at Section 71.12.

(x) A day care center shall obtain substitutes in the case of caregiver absences.

(b) *State Agency.* (1) The State agency shall determine compliance with the group size requirements on a group by group basis.

(2) The State agency shall determine compliance with the group size and staffing requirements on the basis of either actual attendance or scheduled enrollment.

(3) The State agency shall reimburse day care centers in accordance with the its method of determining compliance with the staffing and grouping requirements.

Subpart C—Day Care Home

§ 71.30 Program of activities for children.

(a) *Day Care Home.* A day care home shall establish a planned program of developmentally appropriate activities which promotes the social, intellectual, emotional, and physical development of the children it serves, including any multilingual or handicapped children in the home.

(b) *State Agency.* The State Agency shall provide information and technical assistance to day care homes on establishing a planned program of developmentally appropriate activities.

§ 71.32 Training.

(a) *Day Care Home.* Each caregiver without a nationally recognized child development credential appropriate for the age of the children served in the home shall regularly participate in specialized training related to child care. Caregivers shall begin to participate in specialized training within a reasonable period of time after April 1, 1981. Caregivers assuming caregiving duties after April 1, 1981 must begin to participate in training within six months of assuming caregiving duties.

(b) *State Agency.* (1) The State Agency shall establish and implement a statewide plan for providing or purchasing training for all day care home caregivers. The plan must specify the nature and extent of the training required for day care home caregivers and address the following areas:

- Child Growth and Development.
- Child Care Programming and Activities.
- Health and Safety Practices.
- Nutrition Practices and Good Eating Habits.
- Design and Use of Physical Space.
- Working with Parents.
- Community Health and Social Service Resources.
- Day Care for Multilingual Children.
- Day Care for Handicapped Children.
- Day Care Home Administration.
- Handling Behavior Problems.

(2) The State Agency shall periodically assess its statewide training program for home caregivers and report to the Secretary on the effectiveness of the program by March 30, 1984.

§ 71.34 Nutrition.

(a) *Day Care Home.* A day care home shall provide adequate and nutritious meals prepared in a safe and sanitary manner. Breakfast shall be provided at parent request. Lunch and mid-morning

and mid-afternoon snacks shall be provided. When children are in care during evening and night hours, the home shall provide an evening meal.

(b) *State Agency.* The State Agency shall make the consultative services of a qualified nutritionist or food service specialist available to day care homes.

§ 71.36 Health and safety.

(a) *Day Care Home.* (1) A day care home shall have on record for each child enrolled in a day care home whose parents do not object on religious grounds, a statement from a licensed health practitioner that—

(i) Describes any special precautions for diet, medication, or activity;

(ii) States that the child has received immunizations in accordance with recommendations of the U.S. Public Health Service or the American Academy of Pediatrics; and

(iii) States that the child has received a health assessment in accordance with the standards of the American Academy of Pediatrics, or the EPSDT National Recommended Health Assessment Plan.

(2) The statement for each child must be on record within 60 days of enrollment, and must be updated according to the recommended schedule for routine health supervision of the American Academy of Pediatrics, or the EPSDT National Recommended Health Assessment Plan.

(3) A day care home shall have plans to respond to illness and emergencies including fire, serious injury, and ingestion of poison.

(4) A day care home shall not dispense medications to a child without the written consent of his or her parent. All medications shall be dispensed in accordance with instructions from a parent or physician. Medications shall be kept in labelled containers out of the reach of children.

(5) A day care home shall provide information to parents, as needed, concerning child health services available in the community, and shall refer parents to appropriate health services agencies.

(b) *State Agency.* (1) The State agency shall provide information to each day care home about the availability of child health services in the community and about how the services may be obtained.

(2) The State agency shall establish and maintain health standards for day care home personnel.

(3) The State agency shall make arrangements so that HEW funded children in day care homes who are eligible for Federal, State, or locally funded health services receive those services when needed.

§ 71.38 Physical environment.

(a) *Day Care Home.* A day care home shall meet—

(1) State and local requirements for licensing, certification, registration, or approval;

(2) State and local codes relating to health, sanitation, and building and fire safety applicable to residential occupancy; and

(3) State day care home standards for transportation, swimming, and equipment safety.

(b) *State Agency.* The State agency shall ensure that standards for day care homes that specifically address sanitation and transportation, swimming, and equipment safety exist in the State.

§ 71.40 Social services.

(a) *Day Care Home.* A day care home shall provide information to parents, as needed, concerning social services available in the community, and shall refer parents to appropriate social services agencies.

(b) *State Agency.* (1) The State agency shall provide information to each day care home about the availability of social services in the community and about how the services may be obtained.

(2) The State agency shall make arrangements so that HEW funded children in day care homes who are eligible for Federal, State or locally funded social services receive those services when needed.

§ 71.42 Parent involvement.

(a) *Day Care Home.* A day care home must—

(1) Provide parents with opportunities to observe the home and to discuss their children's needs before enrollment;

(2) Inform parents about the day care program and its policies;

(3) Regularly offer parents opportunities to observe their children, and talk about their children's needs; and

(4) Regularly exchange information with parents about their children.

(b) *State Agency.* (1) The State agency shall provide information and technical assistance to day care homes on working with parents.

(2) The State agency shall offer parents their choice of day care facility whenever administratively feasible. The State agency shall make a copy of the HEW day care requirements available to parents using HEW-funded day care.

§ 71.44 Group composition.

(a) In a day care home in which one caregiver cares for children of all ages, including children under two years of age, the group size at any given time shall not exceed five. No more than two of these children may be under two years of age. The caregiver's own children younger than six and not yet in full day school shall count towards the group size requirement.

(b) In a day care home in which one caregiver cares for children who are all under two years of age, the group size at any given time shall not exceed three. There may be no other children in the home besides the caregiver's own children over the age of six years.

(c) In a day care home in which one caregiver cares for children who are all two years of age or older, the group size at any given time shall not exceed six, except that two additional school age children may be cared for before and after school hours. The caregiver's own children younger than six and not yet in full day school shall count towards the group size requirement.

(d) In a day care home in which two or more caregivers care for children of all ages, including children under two years of age, the group size at any given time shall not exceed ten. No more than two of these children may be under two years of age. The caregivers' own children younger than six and not yet in full day school shall count towards the group size requirement.

(e) In a day care home in which two or more caregivers care for children who are all two years of age or older, the group size at any given time shall not exceed 12, except that two additional school age children may be cared for before and after school hours. The caregivers' own children younger than six and not yet in full day school shall count towards the group size requirements.

Subpart D—State Agency Administration

§ 71.56 Monitoring.

(a) The State agency must determine each day care facility's compliance with these requirements at least annually.

(b) The State agency shall make an on-site visit to a day care facility at least every three years and whenever the State has reason to believe that the facility fails to meet the requirements of this part.

§ 71.58 Rates of payment.

(a) In establishing rates of payment for child day care services the State agency shall take into account the costs to the facility of meeting this part.

(b) The State agency shall make available upon request the basis for its day care reimbursement rates, and the

procedures used to determine those rates.

§ 71.60 Future review of day care regulations.

The Secretary will review the effectiveness of these regulations 36 months after the April 1, 1981 effective date. As part of this review, the Secretary will publish a notice of opportunity for public comment on the effectiveness of the regulations. The Secretary will assess the comments and publish the results of the review and assessment in the **Federal Register.**

§ 71.62 State agency advisory council.

(a) The State agency shall have a Day Care Advisory Council to advise the State agency on the implementation of HEW day care requirements.

(b) Membership on the Day Care Advisory Council must include parents of HEW funded children in day care, operators of day care centers and day care homes, and representatives of appropriate public agencies.

§ 71.64 State agency waiver.

The State agency may waive the staffing requirements in § 71.24 for a day care center in which not more than 20% or 10 (whichever is lower) of the children in the center are children whose care is paid for wholly or in part with Federal funds, if the day care center meets State licensing standards.

§ 71.66 Effective date.

These regulations are effective on October 1, 1980 except that—

(a) The training requirements in § 71.12 and 71.32, and the requirements in § 71.36 and § 71.40 that day care homes inform parents about and refer them to health and social services, will become effective on April 1, 1981; and

(b) For any State, the October 1, 1980 effective date of the group composition requirements at § 71.24 may be extended for not more than two years upon a showing satisfactory to the Secretary that substantial numbers of HEW funded children are receiving care in centers that meet group composition requirements less stringent than the requirements in § 71.24, and that additional time is needed to meet those requirements within the State. The showing must—

(1) Be made to the Secretary by the State agency by October 1, 1980; and

(2) Include detailed information about the group composition requirements currently being met by the centers within the State;

(3) Indicate the number of HEW funded children who are receiving care in centers that do not comply with the group composition requirements in § 71.24;

(4) Estimate the time necessary to fully meet those requirements in centers caring for HEW funded children within the State; and

(5) Include a schedule for a gradual phase-in of the requirements.

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federal register

Wednesday
March 19, 1980

Part VI

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Proposed Critical Habitat for Four Species in Texas

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal of Critical Habitat for Four Species in Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes Critical Habitat for Texas wild rice (*Zizania texana*), San Marcos salamander (*Eurycea nana*), San Marcos gambusia (*Gambusia georgei*) and fountain darter (*Etheostoma fonticola*). Texas wild rice and fountain darter were listed as Endangered on April 26, 1978 (43 FR 17910–17916) and on October 13, 1970 (35 FR 16047), respectively. San Marcos gambusia and San Marcos salamader were proposed as Endangered and Threatened, respectively, with Critical Habitat on July 14, 1978 (43 FR 30316–30319). The Critical Habitat portions of the two latter proposals were withdrawn by the Service on March 6, 1979, because of procedural and substantive changes made by the Endangered Species Act Amendments of 1978. Critical Habitat for Texas wild rice and fountain darter are proposed for the first time. This proposed rule conforms to the requirements of the 1978 Amendments.

DATES: Comments from the public on this proposed rule must be submitted by May 19, 1980. Comments from the Governor of Texas must be submitted by June 17, 1980. A public meeting will be held April 8, 1980, and a public hearing will be held May 12, 1980, in San Marcos, Texas.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201. A public meeting and a pubic hearing will be held at the locations set out in the table below.

Public Meeting: San Marcos, Texas—Southwest Texas State University, Student Union Building, Chautauqua Room, 7:00 p.m. April 8, 1980.

Public Hearing: San Marcos, Texas—Southwest Texas State University, Student Union Building, Chautauqua Room, 7:00 p.m. May 12, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Texas wild rice—Zizania texana was listed as an Endangered species without Critical Habitat on April 28, 1978 (43 FR 17910–17916). Critical Habitat is proposed for this species for the first time. Texas wild rice, once known from San Marcos Spring Lake and its outflow, the San Marcos River, has undergone significant population decline (Emery, 1967). The wild rice population, once vigorous in San Marcos Spring Lake and for a 2 mile (3.2 km) segment of the San Marcos River, has been reduced to an area measuring approximately 1,131 square meters (Emery, 1977) along a 1.5 mile (2.4 km) stretch of the river. Reports indicate that the population is stable at present (Beaty, pers. comm., 1980).

Elimination of *Zizania texana* from much of its former distribution along the San Marcos River and Spring Lake has been attributed to human activities. Past impacts, now largely abated, include cutting of *Zizania texana* and other aquatic vegetation, and streambed harrowing or plowing to eliminate aquatic plants from recreational areas. Plant debris resulting from cut vegetation entangles in the erect inflorescences of *Zizania texana* and forces them underwater, preventing sexual reproduction of the species. Although cutting practices have been modified recently and the size of plant debris reduced (Longley, pers. comm., 1980), *Zizania texana* flowering heads are still being forced underwater in this manner, and no native *Zizania texana* have been observed to produce significant amounts of seed in recent years (Emery, pers. comm., 1980). Two commercial aquatic plant enterprises have engaged in the removal of undesirable species from stream and lake bottoms and have replaced them with saleable species for the aquarium trade (Emery, 1967). Pollution from sewage leaks, storm drainage systems, and watershed runoff from streets, highways, railroads, and recreational areas have also had detrimental effects on the population (Beaty, 1975).

Although harrowing, pollution, and commercial activities have virtually stopped, threats to the survival of the species remain. Maintenance of certain recreational areas along the San Marcos River has destroyed colonies of *Zizania texana*, particularly in the vicinity of Spring Lake Dam and the U.S. Highway 82 bridge. Continued cutting of vegetation and intensive recreational activity in these areas makes reestablishment of the grass highly unlikely. Floating plant debris from vegetation cut in Spring Lake continues to interfere with seed production in the Texas wild rice, despite modifications in cutting practices. The species must therefore rely on vegetative reproduction to maintain and increase the population, which may have serious evolutionary consequences for the species. Possible hybridization of the species is another potentially serious threat to the gene pool of this population. *Zizania* hybrids, crosses between Texas wild rice and other wild rice species, are producing seeds in experiments conducted in the immediate vicinity of the San Marcos River (Longley, pers. comm., 1980). Should any of these seeds make their way into the San Marcos River, and hybrid plants cross with flowering native *Zizania texana*, a dilution of the *Zizania texana* gene pool could result.

In addition, threats to the springs feeding the San Marcos River or the Edwards Aquifer, such as ground water pollution or reduced flow, could threaten the Texas wild rice.

The area proposed as Critical Habitat satisfies all known criteria for the ecological and physiological requirements of *Zizania texana*. The inability of the native plants to reproduce sexually in this habitat is cause for concern regarding the evolutionary potential of the species, however. It is apparent that factors interfering with sexual reproduction of Texas wild rice must be alleviated if the species is to adapt to future changes in its environment. The area proposed as Critical Habitat includes the entire known present and historical range of the species and a small amount of habitat (approximately ½ mile) downstream from existing colonies for expansion of the population.

San Marcos salamander—On August 2, 1977, the U.S. Fish and Wildlife Service published a notice in the **Federal Register** (42 FR 39119–39120) to the effect that a review of the status of 10 amphibians was being conducted. The San Marcos salamander (*Eurycea nana*) was included as part of the review. As a result of the notice of review, responses were received from the State of Texas and professional biologists. The comments and supportive documents were reviewed and a summary was presented in the July 14, 1978, proposed rule to list this species as Threatened with special rules which would allow

taking under state law (see the **Federal Register**, 43 FR 30316–30319). On March 6, 1979, the Service withdrew all pending Critical Habitat proposals in compliance with the Endangered Species Act Amendments of 1978 (see the **Federal Register**, 44 FR 12382–12384).

The San Marcos salamander is presently known only from Spring Lake and approximately 50 meters downstream in the San Marcos River. While the population may be quite dense, this species is entirely aquatic and depends on a constant flow of spring water to maintain its environment. The threats to the environment were specified in the proposal of July 14, 1978 (43 FR 30316–30319), and are summarized later in this rulemaking.

With respect to the San Marcos salamander, the area proposed as Critical Habitat satisfies all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. Dense algal mats cover the substrate and it is within this vegetation that the salamander finds cover and protection from fish and other pedators. Tendiped fly larvae and amphipods are the main food items of the salamander and these prey are found abundantly within the bottom vegetation (Tupa and Davis, 1976). While courtship of the salamander has not been described and eggs have not been found, hatchlings have; coupled with the relatively large population size, successful reproduction is apparently occurring. The area proposed as Critical Habitat includes the entire known range of the species.

San Marcos gambusia—On July 14, 1978, the U.S. Fish and Wildlife Service published a proposal to list the San Marcos gambusia *(Gambusia georgei)* as Endangered with a segment of the San Marcos River as its Critical Habitat. On March 6, 1979, the Service published a notice (44 FR 12382–12384) withdrawing all pending Critical Habitat proposals in compliance with the Endangered Species Act Amendments of 1978.

The Sam Marcos gambusia is presently known only from one section (approximately 1.5 km) of the San Marcos River below Spring Lake in the community of San Marcos. In 1969, Drs. Clark Hubbs and Alex Peden estimated the population of San Marcos gambusia to be fewer than 1,000 individuals. A survey in 1974 revealed the present of one individual. The most recent survey (1979) found 19 individuals living in the area proposed as Critical Habitat. There are two other species of gambusia (*Gambusia affinis* and *Gambusia geiseri*) which occur in the same area and these are still abundant. The above information was taken from a 1976 contract report by Dr. B. G. Whiteside and a 1979 contract report by Dr. Clark Hubbs.

Fountain Darter—The fountain darter was listed as Endangered on October 13, 1970 (35 FR 16047). The fountain darter was known originally from the San Marcos and Comal Rivers in Hays and Comal Counties, Texas, respectively. The Comal River population was extirpated during the mid 1950's due to reduced flows form Comal Springs (Schenck and Whiteside, 1976). Efforts to reestablish this population have been made by introducing individuals from the San Marcos population. It is too early to determine the status of this population, therefore the Comal River, Comal County, Texas is not being proposed as Critical Habitat at this time.

In the San Marcos River drainage, the fountain darter was known downstream just below the junction of the Blanco River. Recent collectors have not found any individuals below the outfall of the new sewage treatment plant. The treatment plant is located approximately 1 mile (1.6 km) upstream from the confluence of the Blanco River. Absence of the fountain darter is this section of the San Marcos River is most likely due to the small impoundment (Cumming's Dam) built in the early 1900's which altered the habitat. The impoundment has increased the depth and restricted the growth of many types of vegetation utilized by the darter in the upper reaches of the San Marcos River (Schenck and Whiteside, 1976).

Fountain darter populations are presently known in Spring Lake, and in the San Marcos River downstream to just below the Interstate Highway 35 bridge.

With respect to the San Marcos gambusia and fountain darter, the area proposed as Critical Habitat satisfies all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of these species. The area proposed as Critical Habitat is presently inhabited by these species. Additional Critical Habitat for the fountain darter along the Comal River may be proposed in the future.

Critical Habitat

The Act defines "critical habitat" as (i) the specific areas within the geographical areas occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (ii) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that the entire known ranges of the species under consideration should be designated as Critical Habitat. Each of the species occupies an extremely restricted range and is therefore highly susceptible to changes in habitat. The areas proposed as Critical Habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. If, during the comment period, new information is made available, these areas proposed as critical for the continued existence of these species may be modified to more accurately reflect their physiological, behavioral, ecological, and evolutionary requirements.

Texas Wild Rice—The most significant factors presently affecting the continued existence of the Texas wild rice are its extreme vulnerability due to limited range, its apparent inability to reproduce sexually in its native habitat, and the possibility of hybridization. Any action which would significantly alter the flow or water quality of the San Marcos River could adversely modify the Critical Habitat, since the species is adapted to conditions of clear water, uniform annual flow rate and constant year-round temperature (Beaty, 1975). *Zizania texana* does not survive in stagnant water (Beaty, pers. comm., 1980). In addition, any actions which would physically alter the Spring Lake-San Marcos River site, such as dredging, bulldozing, or bottom plowing; or physically disturb the Texas wild rice, such as harrowing, cutting, or intensive collecting, would adversely modify Critical Habitat. These disturbances have been identified as contributors to the decline of the existing Texas wild rice population.

San Marcos Salamander—Foremost among the factors contributing to this salamander's threatened status is its very limited range coupled with the threat of lowered water tables affecting Spring Lake (Longley, 1978).

The owner of Spring Lake, Aquareena Springs, has taken particular care to safeguard the animals in the lake and has cooperated closely with biologists in the Texas Parks and Wildlife Department to ensure that populations can be maintained. Hence, take is not seen as a threat to the continued survival of the species. The major threats to this species are: (1) lowering

of water tables in the area such that Spring Lake could become either dry or intermittent, thus exposing algal mats, and leading to the destruction of this species' sole habitat; (2) the owners of Spring Lake expressed concern that skin divers could disrupt algal mats and the bottom of the lake. This could expose salamanders to predation by fish and other predatory species.

San Marcos gambusia—This species' absence from Spring Lake and its very restricted distribution in the San Marcos River is an indication of its sensitivity and habitat specificity. The areas inhabited by the San Marcos gambusia are open areas away from the stream banks with a minimum of aquatic vegetation over a mud bottom with little current. The habitat is also characterized by thermal constancy. Any actions which would result in an increase in vegetation, disrupt the mud bottom, or alter the temperature regime could easily eliminate the species.

Fountain Darter—Specific actions which would reduce or eliminate the fountain darter populations include the destruction or significant reduction of aquatic vegetation in Spring Lake and the San Marcos River. It has been demonstrated that the preferred habitat of adult and young fountain darters areas with rooted aquatic vegetation which grows close to the substrate with filamentous algae present (Schenck and Whiteside, 1976).

Other actions which could adversely impact the fountain darter include impoundments, excessive withdrawal of water, and pollution. An impoundment on the lower portion of the San Marcos River apparently eliminated the fountain darter in that section of the river. The Comal River population of fountain darters were extirpated when their habitat was reducted to isolated pools by excessive removal of water. The darter has recently been reintroduced into the Gomal River in an attempt to reestablish that population (Schenck and Whiteside, 1976). Pollution in the form of silt, from improperly maintained construction activities could temporarily reduce the population in some areas.

Effect of This Proposal if Published as a Final Rule

Provisions of Interagency Cooperation which implement Section 7 of the Act are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the species, but also to insure that their actions do not result in the destruction or adverse modification of this Critical Habitat which has been determined by the Secretary to be critical.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis, based on available data, and believes at this time that economic and other impacts of this action will be insignificant in the foreseeable future. The Service is notifying agencies that may have jurisdiction over the areas under consideration of this proposed action. These agencies and other interested persons or organizations are requested to provide input at the public meeting and submit additional information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for any of the four species.

Public Meeting and Public Hearing

The Service announces that a public meeting will be held on this proposed rule at San Marcos, Texas on April 8, 1980. The public is invited to attend this meeting and to present opinions and information on the proposal. To further accommodate comments regarding this proposed rule, a public hearing will be held in San Marcos, Texas on May 12, 1980.

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the Texas wild rice, San Marcos salamander, San Marcos gambusia, and fountain darter. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests information on the following:

(1) Biological and other relevant data concerning any threat (or lack thereof) to these species;

(2) Additional information concerning the range and distribution of the species;

(3) Current or planned activities in the subject areas;

(4) The probable impacts of such activities on areas designated as critical habitat; and

(5) The foreseeable economic and other impacts of the critical habitat designation on Federal activities.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. Based on the draft assessment, this proposal is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. The draft assessment and public comments will be analyzed to prepare a final determination prior to the issuance of any final rule regarding these species.

The primary authors of this rule are Ms. Irene M. Storks, Dr. James D. Williams, and Dr. C. Kenneth Dodd, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235–1975).

Note.—The Department of the Interior has determined that this is not a significant proposal and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

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Whiteside, B. G. 1976. Contract Report to U.S. Fish and Wildlife Service on status of San Marcos gambusia.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

§ 17.96 [Amended]

1. It is proposed that § 17.96(a), Plants, be amended by adding Critical Habitat of *Zizania texana* (Texas wild rice) after that of *Oenothera deltoides* ssp. *howellii* (Antioch Dunes evening-primrose) as follows:

Poaceae

Texas Wild Rice (Zizania texana)

Texas, Hays County: Spring Lake and its outflow, the San Marcos River, downstream to its confluence with the Blanco River.

TEXAS WILD RICE
Hays County TEXAS

§ 17.95 [Amended]

2. It is further proposed that § 17.95(d), Amphibians, be amended by adding Critical Habitat of the San Marcos salamander before that of the Houston Toad as follows:

San Marcos Salamander

(Eurycea nana)

Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream approximately 50 meters from the Spring Lake Dam.

SAN MARCOS SALAMANDER
Hays County TEXAS

3. It is further proposed that § 17.95(e), Fishes, be amended by adding Critical Habitat of the San Marcos gambusia after that of the yellowfin madtom as follows:

San Marcos Gambusia

(Gambusia georgei)

Texas, Hays County; San Marcos River from Highway 12 bridge downstream to approximately 0.5 miles below Interstate Highway 35 bridge.

SAN MARCOS GAMBUSIA
Hays County TEXAS

4. It is further proposed that § 17.95(e), Fishes, be amended by adding Critical Habitat of the Fountain darter after that of the slackwater darter as follows:

Fountain Darter

(Etheostoma fonticola)

Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream approximately 0.5 miles below Interstate Highway 35 bridge.

FOUNTAIN DARTER
Hays County TEXAS

Dated: March 13, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-8308 Filed 3-18-80; 8:45 am]

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federal register

Wednesday
March 19, 1980

Part VII

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare and Medicaid Programs; Annual Hospital Report

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Parts 400, 401, 402, 403, 404, 433

Medicare and Medicaid Programs; Annual Hospital Report

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposal would implement certain provisions of section 19 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95–142) by establishing a uniform method for hospitals participating in the Medicare or Medicaid programs to report the cost and volume of services. The intent is to obtain comparable data on all participating hospitals for purposes of reimbursement, effective cost and policy analysis, assessment of alternative reimbursement mechanisms and health planning.

This is the second issuance of a notice of proposed rulemaking to implement these requirements. Originally we published an NPRM on January 23, 1979 entitled "System for Hospital Uniform Reporting (SHUR)". We are reissuing a proposed rule because we have substantially revised the reporting requirements based on the large number of comments received in response to the original proposal, the information we obtained from a cost impact study, and the results of a Regulatory Analysis conducted in accordance with Executive Order 12044 "Improving Government Regulations." The changes we have made significantly reduce the cost and burden of the original proposal.

Additionally, we have relocated the reporting filing requirement from Subpart J (dealing with conditions of participation) to Subpart F (dealing with provider agreements).

This proposal would establish an Annual Hospital Report. The Annual Hospital Report incorporates into a single report the Medicare cost report, the Public Health Service's Hospital Facilities Minimum Data Set, and new uniform reporting requirements needed to implement the law. The regulation would establish the basic reporting requirements and the provisions for public disclosure of the Annual Hospital Report information. The regulation does not set forth the details of the Annual Hospital Report which are contained in a manual of instructions.

DATES: Closing date for receipt of comments: May 28, 1980. A 70 day comment period allows sufficient time for commenters to request and receive a copy of the Annual Hospital Report forms and instructions.

ADDRESSES: Address comments in writing to:

Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to:

Room 5220, Switzer Building, 330 C Street, SW., Washington, D.C., or

Room 789 East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Please refer to File Code RDS–1–P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection in Room 5220 of the Department's offices at 330 C Street, SW., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 to 5:00 p.m. (202–245–0365).

The manual of instructions which contains details of the Annual Hospital Report is available from:

Chief, Printing and Publications Branch, Division of Administrative Services, Health Care Financing Administration, 1710 Gwynn Oak Building, Baltimore, Maryland 21235, 301–594–5514.

FOR FURTHER INFORMATION CONTACT: William Damrosch, 301–597–1467.

SUPPLEMENTARY INFORMATION:

Statutory Basis

Section 19 of Pub. L. 95–142 (section 1121 of the Social Security Act; 42 U.S.C. 1320a) requires the Department of Health, Education, and Welfare to establish uniform methods which health care facilities and organizations participating in Medicare and Medicaid must use to report the costs and volume of services. Hospitals, skilled nursing and intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations are required by the law to use uniform reporting systems that provide detailed information on (1) cost and volume of services; (2) rates; (3) capital assets; (4) discharge data; and (5) billing data.

Section 19 requires the Department to: (1) Monitor uniform reporting systems; (2) assist with and support demonstrations and evaluations of the systems; (3) encourage States to adopt uniform systems for purposes other than Medicaid; (4) periodically revise the systems to make them more effective and less costly; and (5) provide information obtained from the reports to appropriate agencies and organizations, including health planners.

The law also requires the Department, in the development of the reporting systems, to:

1. Consider appropriate variations in applying the uniform systems to different classes of facilities; and

2. Make the systems, to the extent possible, consistent with the cooperative systems used to produce comparable and uniform health information and statistics as described under section 306(e)(1) of the Public Health Service Act.

General Background

The reporting requirements covered by this proposed rule apply only to hospital-health services complexes. Moreover, the requirements cover only data on costs and volume of services, rates and capital assets. The remainder of the reporting requirements mandated by section 19 that pertain to hospital discharge and billing data and to costs and volume of services for other institutional providers will be covered by subsequent Notices of Proposed Rulemaking.

Purpose

HCFA paid more than $25 billion to 7,000 hospitals participating in the Medicare and Medicaid programs in 1978. Hospital costs rose 12.5 percent per year in 1978 and are continuing to rise at a rapid rate. Our ability to manage these publicly funded health care programs has been impeded by the current cost reporting methods which make it difficult to judge the efficiency of hospitals and to compare accurately the costs of services furnished within a hospital or among hospitals.

In general, the purpose for developing uniform methods of reporting is to obtain comparable information on the costs and utilization of health care services delivered by all hospitals participating in the Medicare and Medicaid programs.

Uniform data will enable us to ensure that hospitals are reimbursed under the Medicare and Medicaid programs for what they are entitled to—no more and no less. Uniform data will also provide the data base needed by HCFA and the Department to: (1) Develop a more rational and equitable reimbursement system; (2) conduct year-to-year and interinstitutional comparisons of cost and utilization data to identify trends in the cost and use of health care services, and to conduct policy analyses; (3) develop new approaches to cost

containment; and (4) improve the capacity to detect fraud, abuse and waste in the Medicare and Medicaid programs. The data also will be used by local, State and Federal agencies such as the Public Health Service to formulate health planning goals and decisions. The information will be helpful to hospitals that wish to compare the costs of delivering services for their own planning and management purposes.

Under the current reimbursement system, hospitals usually report their revenue and expenses according to the organizational units that produce the revenue and incur the expense (i.e., a "responsibility" reporting system). Each hospital is organized differently; therefore the costs are organized differently. Since each hospital has some flexibility in determining what costs form a particular cost center (a set of activities or functions for which costs are reported), cost centers cannot be accurately compared. Further, there are no uniform definitions of what costs can be included in a particular cost center. There is no adequate way to determine the cost per unit of services in a hospital or to compare the cost per unit of service across hospitals because the cost centers may include data which are not comparable. Finally, we cannot adequately measure productivity because there are no standard units of measure (e.g., the proposed unit of measure for end stage renal disease services is the number of treatments).

To ensure equitable reimbursement to hospitals and to establish a data base for future reimbursement policy changes, we need a reporting system with the following features: First, it must produce data organized on the basis of a standard set of functions (i.e., a "functional" reporting system). This means that hospitals would report their revenue and expense by a uniformly defined set of activities which generated the revenue or incurred the expense rather than by organizational units unique to a particular hospital. Second, there must be a standard definition for the types of costs that can be included in a particular cost center so that costs can be reported and reimbursed uniformly. Third, there must be a standard unit of measure for all revenue producing centers which is related to the services provided so that a cost or charge per unit of service can be determined that is comparable across hospitals. A system with these features would ensure that the data reported is comparable across hospitals furnishing similar services—a necessary basis for the development of rational and equitable reimbursement policy.

Early Development of Uniform Reporting Systems

Department efforts to design a system that would accomplish objectives began in 1974 when Congress passed Pub. L. 93–641, the National Health Planning and Resources Development Act. This Act set, as a national priority, the development of uniform cost accounting simplified reimbursement, and utilization reporting systems.

Since the 1974 legislation the Department has worked with five States which have developed uniform systems (Arizona, California, New York, Oregon and Washington). The proposed new system is based on experience gained in the States operating uniform reporting systems.

Section 19 of Pub. L. 95–142 enacted in 1977, mandated only a system of uniform reporting while making no specific requirement for uniform accounting.

We orginally published a Notice of Proposed Rulemaking (NPRM) on January 23, 1979 (44 FR 4741) to implement Section 19 of Pub. L. 95–142. In that NPRM we particularly invited specific comments on ways to reduce the costs and reporting burden of the new system. We have substantially revised the reporing requirement as a result of comments we received in response to the NPRM; the information we obtained from a cost impact study; and a regulatory analysis we conducted in accordance with Executive Order 12044 "Improving Government Regulations." That analysis is published as an appendix to this Notice and also is available on request.

The revisions significantly reduce cost and reporting burden. We have reduced the reporting burden by 20 percent from the orginal proposal and the number of forms and pages of manual material by 45 percent. We have also reduced the estimated annual operating costs by 34 percent.

Cost and Draft Regulatory Analysis

In assessing the need for changes to the initial proposal published on January 23, 1979, HCFA used the results of the cost study carried out under contract with Morris, Davis and Company and a formal regulatory analysis conducted in accordance with Executive Order 12044, "Improving Government Regulations."

In analyzing the effect of this proposed regulation on hospitals, we assessed the cost and burden of seven alternatives out of the hundreds of variations that could be devised. The alternatives range from total conversion of a hospital's day-to-day accounting system to retention of the current Medicare reporting system. Although the former cannot be required by HCFA and the latter is contrary to the mandate in Pub. L. 95–142, we included them since they represent both ends of the spectrum and thus indicate the entire range of marginal cost/burden of implementing uniform reporting from $–0– to $208 million for the first year.

Under the alternative we selected, the total start up costs for all hospitals would be $19 million and the annual operating costs $37 million, a total of $56 million in the first year. This total cost would be only .2 percent of the $25 billion we paid to hospitals in 1978 and only 0.079 percent of the $70.9 billion hospitals received from all sources in 1978. For the average hospital which billed Medicare and Medicaid $3,589,000 in 1978, this proposal would add only $5,300 yearly to its operating costs. Of that amount, Medicare and Medicaid would pay at least one third as their share of administrative overhead (The hospital's share would be $3,530).

The cost figures for the alternatives were extrapolated from a study which was conducted for HCFA by Morris, Davis and Company to provide a basis on which to estimate the nationwide implementation and operational costs and burden of the program. A random sample of fifty hospitals across the United States were used in the study. The cost figures are based upon the premise that 21 percent of the hospitals in the nation already report cost and revenue data on a uniform basis similar to the proposed requirements and would incur little or no additional cost in converting to the Annual Hospital Report.

The American Hospital Association and the Hospital Financial Management Association assisted us in developing the methodology for the study. They also reviewed the sample of hospitals before the study began.

In determining which of the seven options considered would be the most cost-beneficial alternative, we incorporated public comments and the results of the Morris, Davis and Company study. We believe the alternative selected will ease the reporting burden of the original proposal while still maintaining the quality of data and, in our judgment, it is the most cost-effective alternative. This alternative provides quality data while greatly reducing reporting burden from SHUR by:

- Retaining the requirement in SHUR to report hospital data using functional activity definitions;
- Eliminating 8 of the 12 uniform reporting forms in the original proposal. This action alone reduces reporting burden by 10 percent.
- Increasing the dollar level that must be reached in a cost center before the costs must be broken out and reported in separate centers. The level has been raised to the greater of $5,000 or 5 percent of the cost center. This is a five-fold increase over the level previously proposed;
- Reducing the number of standard units of measure that must be reported;
- Allowing standard units of measure to be reported based upon statistical sampling;
- Limiting the number of instances where direct recording of overhead costs is required to reduce the need for keeping detailed records; and
- Making several other technical changes to reduce the difficulty of reporting.

These changes reduce the burden of reporting proposed in SHUR by 20 percent and the pages of forms and manual material by 45 percent. Only 4 new forms would now be required to implement the uniform reporting requirements. A summary of the reduction in pages of forms and manual material follows. The estimated cost for start-up and operation in the first year has been reduced from $70 million to $56 million, a decrease of 20 percent. The annual operating cost for each year thereafter has been reduced from $56 million to $37 million, a decrease of 34 percent. A summary of the alternatives and their costs follows.

Reporting Burden Reduction

Manual Pages

SHUR:	
Medicare cost report	180
PHS/hospital facilities minimum data set	10
Uniform report	410
Total	600
Annual hospital report:	
Medicare cost report	122
PHS/hospital facilities minimum data set	5
Uniform reporting	138
Appendix	40
Total	305

Forms

SHUR:	
Medicare totally (or greater than 50 percent)	50
PHS/hospital facilities minimum data set	4
Uniform reporting	2
Total	600
Annual hospital report:	
Medicare—totally (or greater than 50 percent)	55
PHS/hospital facilities minimum data set	4
Uniform reporting	4
Total	63

Cost of Implementation Alternatives

[In millions of dollars]

	Total startup cost	Total annual cost	Total first year cost	Percent acute inpatient expenditures (all hospital costs)	Description of alternatives
Alternative A	$76	$132	$208	0.293	Uniform accounting (not required by law).
Less savings from allowing reclassification	57	45	102		
Alternative B	19	87	106	0.149	Only require year end reclassification of costs from hospital's responsibility accounting system to functional reporting.
Less savings from allowing sampling of SUM's	0	36	36		
Alternative C (Morris, Davis & Co. study)	19	51	70	0.099	Reclassification and allow sampling of SUM's rather than 100% data collection effort.
Less savings from limiting direct costing	0	8	8		
Alternative D	19	43	62	0.087	Reclassification, sampling of SUM's and limiting requirements for most direct costing.
Less savings from limiting the number of SUM's	0	4	4		
Alternative E	19	39	58	0.082	Reclassification, sampling of SUM's limited direct costing and reducing the number of SUM's to be reported.
Less savings from other miscellaneous changes	0	2	2		
Alternative F (HCFA recommendation)	19	37	56	0.079	Reclassification, sampling of SUM's, limited direct costing, limited reporting of SUM's and other miscellaneous changes.
Less savings from maintaining current reporting system	19	37	56		
Alternative G	0-60	0-60	0-60	[1]0.000-0.084	Continue only current medicare reporting requirements (does not meet Pub. L. 95-142 minimum requirements).

[1] This figure could range up to $60 million if HCFA did not implement the Annual Hospital Report since States would implement uniform reporting on their own initiative. Several States have already implemented such systems while others have indicated interest. Hospital chains doing business in several States will be particularly hard hit in coping with multiple reporting systems.

Public Comment

During the course of the 90-day comment period on the originally proposed rule, more than 10,000 copies of the proposed manual were distributed to interested organizations and individuals. We received 2,237 comments from 1,500 hospitals; 98 hospitals and professional associations; accounting and consulting firms, and individual members of Congress, State and local health planning agencies, rate setting agencies, insurance companies, professional groups and consumers.

The commenters expressed the following major concerns: (1) The proposal continues the trend toward increasing regulation of the health care industry (2) the proposal should not tie uniform reporting requirements to Medicare and Medicaid reimbusement; (3) the proposal imposed additional costs and burdens on providers and the government; (4) the proposal changes

reimbursement policies; and (5) the proposal effectively requires uniform accounting.

Although HCFA specifically requested suggestions on how to reduce the burden and costs of the proposal in a manner consistent with the legislative mandate and the needs of the Department, few comments addressed that issue. The majority of the comments were general in nature. Those individuals or organizations that did comment on individual sections of the manual did so in great detail.

Discussion of Major Comments

The main issues raised in the comments and our responses are discussed below:

General Issues

A. Continues Trends to Increasing Regulation of Health Care Industry

1. *Comment.* Increased regulation of the hospital industry is unnecessary and inconsistent with the current trend toward deregulation of other industries.

Response. Market forces that exist in other sectors to induce increased productivity and efficiency are largely absent in the health care industry. There is lack of competitive pressure and incentives for controlling health care costs. Pressures are frequently exerted for more services and increased technology and these objectives are not always compatible with cost containment.

The federal government spends more than $47 billion annually for health care. Our responsibilities to the public require that we design and implement systems which will permit us to account to the public for these expenditures and at the same time address concerns regarding availability and accessibility of health services. Many attribute the causes of health care cost inflation to inherent structural defects in the financing and delivery of health services. We believe that the uniform cost data provided will prove extremely valuable in eliminating these defects.

2. *Comment.* The system was developed without identifying user needs or the purpose for the information.

Response. The purpose of the data as specified in the legislation, reports of the Senate Finance and Human Resources Committees and House Commerce and Ways and Means Committees, and the preamble of both NPRMs are to obtain comparable cost and related data from all participating hospitals, and to use these data to:

a. Provide a more rational and equitable reimbursement system for Medicare and Medicaid.

The sytem identifies hospital costs for providing services by concisely defining areas in which costs must be reported (cost centers) and the units related to the services provided by which these costs can be compared (Standard Units of Measure). The Annual Hosptial Report will make accurate comparisons possible and thereby facilitate changes in reimbusement methodology.

b. Improve the capability to detect fraud, abuse and waste. Comparable cost data by functional category is important in identifying instances of fraud, abuse, and waste.

c. Provide year-to-year and inter-institutional comparisons and monitoring of hospital expenditures, productivity and utilization of services.

The comparisions will highlight hospitals whose costs, productivity or utilization of services are disproportionate to the services rendered.

d. Support cost containment objective.

The annual Hospital Report will provide an indispensible tool in establishing rational limits on hospital cost and in providing equitable reimbursement to hospitals regardless of the reimbursement methodology employed.

e. Reduce other data collection on hospitals.

The Annual Hospital Report incorporates the items of the Public Health Services' Hospital Facilities Minimum Data Set. The Annual Hospital Report alleviates the need for many of the current hospital surveys.

f. Assist private, local, State and Federal agencies and health planners to carry out their respective program objectives.

(1) State agencies will be able to measure health status of the population, recognize patterns of utilization and evaluate effectiveness of programs;

(2) Health planner will be able to gather inventory of health services, identify cost efficiencies, and evaluate financial feasibility of projects;

(3) Lending institutions and investors will be able to determine the financial viability of projects for debt financing;

g. Support policy decisions and reimbursement reform for the Federal programs.

h. Assist State regulators in carrying out program objectives, including:

(1) Providing the necessary data for policy and reimbursement decisions at the State level.

(2) Reducing data collection, processing and auditing costs at the State level.

(3) Obviating the need for development of similar systems by each State.

i. Provide hospitals with comparative information to facilitate more productive use of resources.

(1) Hospital administrators will be able to compare the performance of their own institutions against that of similar institutions in the State and nation. This information could result in improved management awareness and resulting cost savings.

(2) Hospital management will be able to better evaluate the competitive position of the institution, to measure departmental productivity and to develop charge schedules.

B. Links Reporting and Reimbursement

1. *Comment.* Uniform reporting should not be linked with Medicare and Medicaid reimbursement.

Response. The hospital industry would like uniform reporting to be separated from reimbursement. HCFA would collect uniform, comparable, cost data on one report, but reimburse hospitals on the basis of non-comparable cost data from another report.

HCFA opposes this on four grounds. First, we must use the most reliable data available to monitor the more than $25 billion dollars of taxpayer's funds we pay hospitals each year. To collect, but not use, comparable, more reliable cost data to manage our reimbursement responsibilities is indefensible. Second, we need to link reimbursement with uniform reporting to ensure that hospitals are reimbursed equitably. Third, the industry's proposal would require two separate reports. In order for each to be useable, it would be necessary for hospitals to report data twice, substantially increasing the reporting burden. Fourth, Congress clearly did not intend for uniform reporting and reimbursement to be separate, since Section 19 of Pub. L. 95-142 amended Section 1861(v)(1), the definition of reasonable cost under Medicare. Since hospitals generally are to be reimbursed their reasonable cost under Medicare, the inclusion of the uniform reporting requirement in this section is evidence of Congressional intent to link uniform reporting and reimbursement.

When the Medicare program began, the limited accounting capabilities of hospitals required flexibility in reporting cost data. However, hospital accounting has now become extremely sophisticated, a fact borne out by the variety of ways hospitals have been able to use accounting practices to maximize reimbursement quite legitimately under the current system. As the largest purchaser of hospital services in this country, we must

upgrade our systems to coincide with changes in the state of the art.

2. *Comment.* A significant number of letters (647) indicated that detection of fraud and abuse is the primary purpose of section 19 and questioned whether the system will significantly contribute to minimizing fraud and abuse.

Response. Although section 19 of the law does not specifically mention fraud and abuse control as one of its purposes, the Senate Finance Committee Report (no. 95–453) does identify fraud and abuse control as only one of several reasons for correcting the deficiencies in the present Medicare and Medicaid cost reports.

Our ability to identify potential fraud and abuse will be enhanced by adopting standardized, and therefore comparable, cost data by functional categories. A major accounting firm, in its analysis of the proposed system, indicated that HEW would be able to compare unit costs among peer group institutions in total and by function in an effort to detect kickbacks, bribes, and other examples of excess costs. An official of the New York State Medicaid Fraud Control Unit stated in his comment that the proposed system "coupled with the fraud auditing techniques under development (by his office) should enhance the capability of enforcement agencies to flag potential instances of fraud."

C. Imposes Additional Costs and Burden on Providers and Government

1. *Comments.* Many commenters questioned the benefit/cost ratio of the system, and pointed out the burden and costs hospitals, HEW and other data users would incur with the start-up, on-going maintenance processing and analysis of SHUR.

Others commented that HCFA should conduct a "Regulaory Analysis" in accordance with Executive Order 12044. Several indicated that the additional cost of the system should be borne entirely by Medicare and Medicaid since it is being required by HCFA.

Response. We have been particularly sensitive to the costs and burden of implementing the proposed requirements, and have conducted a regulatory analysis described in the appendix. We used the results of this analysis to substantially revise the requirements to reduce cost and burden. We believe the cost of the system proposed in this NPRM is reasonable in comparison to the benefits to be obtained.

With respect to HCFA bearing the full cost of implemnting the system, we believe that the data obtained from the report will serve a broad range of users and purposes, including hospital internal management. The general public will benefit directly from any cost-saving initiatives that will result. Therefore, this is an administrative cost and should be shared by all payers.

2. *Comment.* Several commenters questioned whether HCFA can process and use the data base that will be accumulated from uniform reports, and whether the data can be condensed into reliable, timely information of value to those for whom it is intended.

Response. The use of a uniform cost report will be itself enhance the usefulness of data because it will permit meaningful aggregations and comparisons of cost data. Further, we plan to process the cost data with an automated system and will encourage hospitals to submit reports to the fiscal intermediaries on magnetic tape. HCFA is developing the necessary technical capability to enable fiscal intermediaries to enter and edit the data. Since the earliest data at which the reports could be furnished is 1982 there is ample time for this development. The processing system is being designed to generate user reports. This process will provide the necessary capability to produce reliable and timely data and reports to meet the needs of users at the local, State and Federal levels.

3. *Comment.* The proposed system should not be implemented at its present level of detail. Perhaps HCFA should require only aggregate-level reporting. A major accounting firm has suggested that HCFA implement a national uniform reporting system at the highest level of aggregated data; i.e., summary totals such as total salaries and wages, total supplies and expenses, and total revenue. Others suggested consolidation of cost centers, reduction of the number of natural expense classifications, elimination of the requirement to report revenue by functional center, and deletion of standard units of measure for the nonrevenue-producing (overhead) cost centers.

Response. Section 19 of Pub. L. 95–142 requires reporting of "(1) the aggregate cost of opeation and the aggregate volume of services" and "(2) the costs and volume of services for various *functional accounts and subaccounts*" (Emphasis added). In addition, the Senate Finance Committee Report states "For example, all hospitals should be required to report X-ray costs on the basis of costs per patient exposure to diagnostic X-ray." This demonstrates Congressional concern for specific as well as aggregate reporting. It is therefore clear that both the legislation and committee report require both.

More importantly, to report only summary details makes no improvement over the current situation. The AHA already publishes aggregate data which does not achieve the purposes of uniform reporting. We have, however, made a number of changes to reduce detail in other suggested areas. These changes are discussed later in this document.

4. *Comment.* The reporting requirements duplicate or overlap other HEW reporting requirements.

Response. The Annual Hospital Report consolidates reporting requirements for HCFA, and to the extent possible, for HEW. The integration of uniform reporting with Medicare and Medicaid reimbursement and the Hospital Facilities Minimum Data Set would eliminate collection of information through several separate reports.

By including the Hospital Facilities Minimum Data Set in the Annual Hospital Report, the health planning agencies will be provided information recommended in the National Guidelines for Health Planning.

Many States have already developed uniform reporting systems for their rate setting and cost control initiatives that are compatible with and go beyond the requirements of the Annual Hospital Report. Many others are beginning the development of uniform reporting systems. The Annual Hospital Report can be used by any State with only a minimum of supplemental information. The availability of the report will save States from the necessity of developing their own systems. We will actively encourage States to adopt AHR as their basic reporting system.

5. *Comment.* HCFA should liberalize the definition of "significance" for determining when reclassification of costs, revenues, and statistics is needed for reporting purposes.

Response. HCFA has liberalized the definition of "significance" by increasing both the dollar limit and the percentage of the direct costs of the functional cost centers.

Under the present system for reporting costs, hospitals have a great deal of flexibility in deciding which costs are to be included in any given cost center. The Annual Hospital Report would reduce that flexibility, but the hospitals may still use their "responsibility" accounting systems to allocate costs on a day-to-day basis. At the end of the year, when hospitals must report costs to HCFA using a "functional" reporting system, they may experience difficulty in reallocating certain costs out of the cost center in which the day-to-day accounting system placed them and into

the cost center required for uniform reporting. This problem arises with costs that cannot easily be associated with a particular cost center either because they are small or because they could legitimately be placed in more than one center. These are called "misplaced costs."

The term "significance" relates to the amount of "misplaced costs" which can be included in a cost center. This means that a hospital does not have to reallocate "misplaced costs" (break out the costs and report them in separate centers) unless they reach a certain dollar limit (i.e., "significance"). A low "significance" can be burdensome to a hospital.

Under the original proposal, the required level of reclassification was the lesser of (1) one-third of one percent of the costs of the functional cost center or (2) one-quarter of one percent of the total annual operating expenses or (3) $1,000. Under the new proposal, the required level of reclassification is the greater of $5,000 or five percent of the costs of the functional cost center.

This means for example, that in a small hospital with a cost center involving $200,000 of expenses, misplaced costs would be allowed to be included in that center unless they exceeded $10,000 (five percent of the total expenses of the cost center). If the cost centers involved were under $100,000, up to $5,000 of misplaced costs could be retained in that cost center.

6. *Comment.* Small hospitals should be exempted or be allowed to report at some reduced level.

Response. We are very concerned about the impact that any reporting requirement can have on small hospitals. Small hospitals already report cost data at a reduced level of reporting because they generally do not provide the wide range of services that larger hospitals provide and, therefore, they have fewer cost centers to report. In a study in New York State, which has implemented a system similar to that described in the January 1979 NPRM, the 300 hospitals involved were asked to list which of 55 commonly used cost centers they had used in compiling their reports. Of the 55 centers reported by facilities having 100 beds or less, only 19 were used by most of the hospitals. The remaining 36 cost centers were reported by less than 25 percent of the hospitals surveyed.

In addition, the changes we have made to increase the dollar threshold ("significance") that must be met before costs must be reported separately in different cost centers should provide substantial relief to small hospitals. Finally, small hospitals, like other hospitals will still be able to obtain waivers of some of the cost reporting requirements if they submit an alternate plan that is approved by the fiscal intermediary. This waiver process should account for peculiar circumstances that justify a modification to the requirements.

7. *Comment.* The requirements should be consistent with Generally Accepted Accounting Principles (GAAP).

Response. The Annual Hospital Report is consistent with the GAAP, except in a few places where variations are needed to provide greater comparability or to reflect Medicare reimbursement policies. The revised report has been modified to delete most of the detail of Chapter I and replace it with references to GAAP, Statements by the Financial Accounting Standards Board, and the Hospital Audit Guide. The rules for the Annual Hospital Report are more restrictive than GAAP in the area of property, plant, and equipment.

Technical Issues

A. Reporting Requirements

1. *Comment.* This system should allow sampling for computing reclassification and accumulating statistics.

Response. The system allows such sampling. We have modified reporting requirements to clarify that time and cost studies are permitted to determine reclassification of costs and revenue for functional reporting. The revised reporting requirements also make it clear that statistical data about the hospital's operation, except those related to inpatient days of services, may be obtained through sampling.

2. *Comment.* The requirements for direct assignment of costs to the areas where they were incurred should be reduced because they necessitate keeping detailed records. The direct assignment areas most frequently addressed include depreciation and rental of movable equipment, non-capitalized non-routine maintenance, data processing, employee benefits, non-billable drugs and supplies, and central patient transportation.

Response. We agree that the requirements for direct assignment of costs may in some cases be unnecessary and have eliminated some requirements. We have not eliminated the requirements altogether, however, because we are convinced that direct assignment of certain expenses increases accuracy for measuring and comparing costs among different institutions. AHA recognizes that functional assignment of costs is essential for external reporting. With the publication of their manual, *Managerial Cost Accounting to Hospitals,* AHA will be encouraging greater use of direct assignment of costs for internal management reporting as well.

Based on the Morris, Davis and Company study and the NPRM comments, we have made a number of changes which will significantly reduce reporting burden. Specifically, the following provisions are now included in the Annual Hospital Report.

a. *Depreciation of Movable Equipment.* Depreciation and rental expense on movable equipment must be reported in an unassigned cost center entitled, Depreciation, Amortization, Lease and Rent-Movable Equipment.

b. *Salaries and Benefits.* Each employee's salary and related benefits must be assigned directly to the functional cost center in which the employee works. The expenses of personnel who work in more than one cost center on a "float" basis must be reported in the cost center in which they work.

c. *Drugs.* All pharmaceutical supplies and materials (including IV solutions, admixtures, blood derivatives, etc.) used in daily hospital, ambulatory, and ancillary service centers are to be reported as a cost of the Drugs Sold cost center.

The related revenues are to be reflected in the Drugs Sold revenue center. The overhead associated with the issuing of pharmaceutical supplies and materials must be reported in the Pharmacy cost center.

d. *Plant Maintenance.* Expenses of all repair and maintenance of buildings, fixed equipment, grounds and movable equipment, including employees' time, hospital materials, purchased services, and maintenance contracts, are to be reported in the Plant Operations and Maintenance cost center.

e. *Data Processing.* All direct costs incurred in operating an electronic data processing center or in purchasing data processing services shall be reported in the cost center receiving the data processing services. Costs shall reflect the direct costs of services to that cost center, or each hospital's own determination of a fair and equitable assignment or allocation concept that gives appropriate recognition to the types of data processing costs incurred in its data processing center, under contract, or from related organizations. This cost allocation must be approved by the fiscal intermediary.

f. *Patient Transportation.* If a hospital maintains a central patient transportation department, these costs must be reported in the appropriate ancillary services cost centers. The

hospital must use a valid basis to reclassify such costs. If there is not an established central patient transportation center, we will not require functional treatment of patient transportation costs.

3. *Comment.* Not all of the statistics required in the January 23, 1979 proposal appear to be necessary and relevant.

Response. HCFA is aware that under SHUR many of the Standard Units of Measure (SUMs) were not adequate for certain cost centers and has encouraged appropriate professional associations to develop adequate ways to measure output. In order to reduce the reporting burden, SUMs will be required only for the revenue producing cost centers.

Changes in the cost center definitions and SUMs for Physical Therapy and Occupational Therapy recommended by the American Physical Therapy Association and the American Occupational Therapy Association have been adopted in the Annual Hospital Report. Certain suggestions of other national professional associations were incorporated in the functional definitions.

Because of the burden and costs associated with collecting two overlapping sets of cost allocation statistics, we have eliminated the rquirement to collect and report the statistics required in the original Worksheets E–4–1, E–4–2, E–4–3, and E–4–4. Deletion of these worksheets alone should reduce the reporting burden by over 10 percent.

4. *Comment.* HCFA should abridge or modify the reporting forms to reduce burden within the legislative mandate and the needs of the Department.

Response. Based on public comments and recommendations from, The American Hospital Association (AHA), the Hospital Financial Management Association (HFMA), the Federation of American Hospitals (FAH) and a number of State hospitals associations we have made numerous changes which reduce the forms burden. The following specific changes have been made in the revised reporting forms:

a. Certification Statement

We made significant changes in the Certification Statement. First, the statement need only be signed by an officer or the administrator of the hospital. Second, the description of the specific legal penalties was removed, and replaced by references to the sections of the Social Security Act where these penalties are described. Finally, the statement itself has been modified to allow the hospital to identify exceptions used in completing the reimbursement portion of the report.

b. A–1 General Hospital Information

Item No. 6 (Other Health Profession Education Programs) was moved to new Worksheet B–5 to capture the level of activity of "medical education programs" as suggested by AHA.

c. A–2–1 & A–2–2 Services Inventory

The purpose of the services inventory is to enable HCFA to more accurately group hospitals for comparative purposes. In addition, the hospital services inventory is a major component of the Hospital Facilities Minimum Data Set (HFMDS). The HFMDS is a component of the National Center for Health Statistics' Cooperative Health Statistics System.

d. B–1 Daily Hospital Services Statistics

Based on the recommendation of AHA and others, we have clarified the instructions for reporting the number of beds in States which have no licensing requirements and for reporting of patient days when patients are placed in a different area because of overflow conditions by combining columns "c", "f", and "g" on Worksheet B–1.

e. B–3 Limitations on Federal Participation for Captial Expenditures Questionnaire

This worksheet replaces Worksheet A–7 in the current Medicare cost report. Although no substantive comments were received, Worksheet B–3 has been revised based on internal review to provide additional information on unapproved and disapproved capital expenditures governed by certificate of need requirements mandated by Section 1523 of the Public Health Service Act and Section 1122 of the Social Security Act.

f. B–5 Interns, Residents, and Fellows Profile

The AHA has pointed out that the "Intern" designation is no longer in use and that the requirement for hospitals to report this information as of the last day of their fiscal year fails to recognize possible rotational staff assignments during the year.

HCFA has eliminated the "intern" designation and retitled the worksheet Medical Education Programs. Part I will be a profile of Residents and Fellows and will ask for the average number of residents and fellows participating in medical education programs during the year rather than requesting the number as of the last day of the fiscal year.

Part II will collect information on other medical education programs. (This is item #6 on proposed Worksheet A–1 and will be transferred to this worksheet).

g. C–1 Balance Sheet

C–3 Statement of Changes in Fund Balance

C–4 Statement of Changes in Financial Position—Unrestricted Fund

The AHA suggested that these worksheets be eliminated, while the HFMA and several accounting firms suggested that HCFA accept a hospital's own audited financial statements.

The Annual Hospital Report collapses the balance sheet information except for the property, plant, and equipment section and the long term debt section. The Statement of Changes in Fund Balance and the Statement of Changes in Financial Position—Unrestricted Fund have been eliminated.

h. D–1 Statement of Patient Care Services Revenue

D–2 Statement of Other Operating and Non-Operating Revenue

Both AHA and HFMA have recommended that these worksheets be deleted because they questioned HCFA's authority to require reporting of revenue and has pointed out problems for hospitals that use all-inclusive rates.

All-inclusive rate hospitals will not be required to report revenue by revenue center, but they must report, as a minimum, total revenue separately for inpatients and outpatients. Those hospitals which have a quasi all-inclusive and no-charge structure will report all existing charges. No-charge structure hospitals are not required to complete these worksheets.

Section 19, Pub. L. 95–142, requires reporting of "Rates, by category of patient and class of purchaser." We believe that Congress was chiefly interested in comparing rates for Medicare and Medicaid to rates for all other patients. This requirement can be satisfied by the data on these worksheets plus information contained on other worksheets. This eliminates the need, at this time, of requiring total billed charges for Medicare and Medicaid patients and for all other patients.

i. E–1 Statement of Patient Care Services Expenses

E–2 Statement of Other Operating and Nonoperating Expenses

Most of the industry associations and major accounting firms, as well as a large number of providers, objected to the level of detail on these worksheets and recommended reporting at more aggregate levels.

For the daily hospital services cost centers, it is only necessary to report those services provided in a discrete

area. This effectively reduces the burden for many areas and is consistent with the concept of aggregate reporting. Liberalization of the definition and dollar threshold of significance for reclassification has also significantly reduced the reporting burden. We have combined the supply columns (e) and (f) and eliminated the depreciation and rent column (j) on these worksheets. We will not require costs of medical and non-medical supplies to be reported separately. Elimination of the requirement to directly assign depreciation and rent eliminates the need for column (j). These changes reduce the number of natural expense classifications from nine to seven.

We also have examined the number of cost centers on these two worksheets in terms of Medicare/Medicaid reimbursement, planning, materiality, and state-of-the-art hospital accounting and reporting. As a result we have: (1) Combined Premature Nursery with Newborn Nursery; (2) combined Skilled Nursing Care—Medicare Non-Certified with Other Sub-Acute Care Services; (3) eliminated one renal dialysis cost center; (4) eliminated Other Organ Acquisition which removed the need for Supplemental Worksheet H–8; and (5) combined Office and Other Rental Expenses and Retail Operations Expenses with Other Non-Operating Expenses.

In other instances, it has been necessary to add new reporting levels. Reduction in the assignment of direct costs required establishing cost centers for Employee Benefits—Non-Payroll Related and Depreciation, Amortization, Lease and Rental-Movable Equipment. This change was necessitated by the elimination of the requirement that hospitals record these expenses in the cost centers benefiting from the expenditure. Several additional cost centers are required for Medicare/Medicaid reimbursement. These include Intermediate Care—Mental Retardation; Home Health—Skilled Nursing Care; Home Health—Medical Social Services; Home Health Aide; Home Health—Other; Durable Medical Equipment—Sold; and Durable Medical Equipment—Leased/Rented.

J. E–3 Health Facility Manpower Statistics

AHA, FHA, and HFMA all expressed concern with the burden of reporting this information. This worksheet was developed to collect information on the hospital labor force. Similar information is needed by the PHS in order for planning agencies to fulfill their responsibilities as mandated by Pub. L. 93–641. It has been collected by them through the Cooperative Health Statistics Systems and related cooperative mechanisms with AHA. The manpower statistics are a component of the Hospital Facilities Minimum Data Set. By incorporating the HFMDS in the proposed reporting requirements, we have reduced duplicate reporting.

As originally proposed, the worksheet was optional for small hospitals. However, PHS has traditionally collected and requires the data from all hospitals. PHS also requested an additional column for dentists as a component of the Hospital facilities Minimum Data Set. The original form has been revised to accommodate this request.

1. E–4–1, E–4–2, E–4–2, and E–4–4 Cost Allocation Statistical Matrix

All of the major hospital industry associations, several accounting firms, and a number of hospitals expressed concern that these worksheets were burdensome and, in some instances, duplicated information on Worksheet G–1.

In order to reduce the reporting burden, these worksheets were deleted. Statistics for the non-revenue producing cost centers will be obtained by expanding slightly the information on Worksheet E–1 to include the applicable statistics for those cost centers that have been "closed."

D. Uses Uniform Reporting to Change Reimbursement Policies

1. *Comment.* Most of the industry associations and providers expressed concern that the proposed system combines changes in reimbursement principles under the guise of uniform functional reporting.

Response. This is not correct. Although the proposed system contained several changes in reimbursement procedures that are not required for uniform reporting, we did not intend to implement these changes solely through the regulation mandating the uniform reporting system. The changes not required for uniform reporting would be adopted through rulemaking or the program issuance procedure, as appropriate. We included them in the proposed system only to avoid the administrative cost to HCFA, and inconvenience to providers, that would result if the manual were revised almost immediately after its issuance. Since publication of the January 23, 1979 NPRM, several of these changes have been adopted through rulemaking. The following is a summary of those changes and some additional clarifying material.

Changes in Medicare and Medicaid Reimbursement and/or Procedure That Are Made Concurrently With the Annual Hospital Report

(1) *Use of functional cost centers for Medicare cost reporting and reimbursement.* Presently, providers have considerable flexibility in establishing and identifying cost centers for Medicare cost reporting purposes. For cost reporting periods beginning on or after the effective date for the implementation of the Annual Hospital Report the cost centers identified and defined in the Annual Hospital Report must be used for Medicare cost reporting and cost apportionment purposes. Certain Annual Hospital Report cost centers are combined on the trial balance worksheet for Medicare cost reporting and reimbursement purposes. These cost centers must remain combined and no others may be added.

(2) *Changes in Basis or Sequence of Allocation.* Intermediary approvals of changes in a provider's basis or a sequence of allocation of a cost center that were in effect before the implementation date of the Annual Hospital Report will not be effective for any cost reporting period beginning after that date of the Annual Hospital Report. After the effective implementation date of the Annual Hospital Report, a provider may make a change from the recommended sequence or basis in the Annual Hospital Report only under the following conditions: the provider must make a written request to its intermediary and submit reasonable justification for the change no later than 90 days before beginning of the cost reporting period for which the change is to apply. The intermediary's approval of a provider's request will be furnished to the hospital in writing. If approved, the effective date of any change will be the beginning of the first cost reporting period for which the request has been made.

In reviewing the hospital's request, the intermediary will apply the following criteria:

Basis of Allocation

(a) The provider must agree to maintain and report all statistics needed for the recommended basis as well as the alternative basis of allocation;

(b) No alternative basis of allocation expressed solely in terms of percentages will be acceptable;

(c) Any alternative basis of allocation must be supported by auditable statistics that are maintained on a regular basis;

(d) The alternative basis of allocation must directly relate to the provision of services by the affected cost center;

(e) The alternative basis of allocation must produce a demonstrably more accurate allocation of cost than the recommended basis. For example, in the Annual Hospital Report cost reporting forms, the recommended basis of allocation for cafeteria costs is full-time equivalent employees. If the provider chooses to maintain an alternative basis of allocation of sales value of meals served to employees by functional cost center or of equivalent meals served to employees by functional cost centers, a more accurate allocation would result. Alternatively, the recommended basis of allocation for laundry is pounds of laundry. The use of the number of items issued would not result in a more accurate allocation of laundry costs; and

(f) Only one statistical basis of allocation may be used for each cost center.

Sequence of allocation

The sequence of allocation of step-down cost finding is based upon the assumption that a cost center furnishes more services to those that follow it in the sequence than it receives from those cost centers, and receives more services from the cost center that precede it than it furnishes to the preceding cost centers. In order to justify the use of an alternative sequence, a hospital must establish through auditable records that the dollar value of goods and services exchanged among cost centers is different from that contemplated by the sequence recommended in the cost reporting form.

For example, a provider may have four nonrevenue producing cost centers, A, B, C and D. The sequence of allocation in the cost reporting forms may indicate that they are allocated in the same order. This sequence is based on the assumption that cost center A furnishes more services to cost centers B, C and D than it receives from B, C or D. Similarly, cost center B furnishes more services to C or D than it receives from C or D and receives more services from cost center A than it furnishes to cost center A. However, if a provider is able to establish through auditable records that cost center B furnishes more services to cost center A than it receives from cost center A, then the sequence of allocation would be cost centers B, A, C and D.

It is necessary to address the issue of varying bases and sequences of allocation concurrently with the issuance of the Annual Hospital Report because the bases and sequences of allocation approved for previous reporting systems would not be applicable. The cost centers on the Annual Hospital Report are different from those appearing on the cost reporting forms that it will replace.

(3) *Adjustments to Cost.* On the Medicare cost reporting forms in use before the adoption of the Annual Hospital Report, certain adjustments to cost are made before the allocation of overhead costs to other cost centers.

These adjustments are: (1) Those needed to adjust expenses to reflect actual expenses incurred; (2) those items which constitute recovery of expenses through sales, charges, fees, grants, gifts, etc.; (3) those items needed to adjust expenses in accordance with the Medicare Principles of Reimbursement; and (4) those items for which separate provision is made in the cost apportionment process. These adjustments are currently made on the basis of cost, including applicable overhead costs, if costs can be determined, or for certain adjustments revenue received, if cost cannot be determined.

It is difficult to determine applicable overhead costs prior to cost finding. To address this problem, HCFA is providing new procedures for making the adjustments to cost. These new procedures could be adopted with or without the use of the Annual Hospital Report. However, for reasons of administrative convenience, HCFA proposes to implement these new procedures effective with the Annual Hospital Report. Under the new procedures, adjustments to certain overhead costs are made during the cost finding process.

That is, for an affected cost center, adjustment is made after the costs of the overhead cost centers that precede it in the sequence of allocation are allocated to the affected cost center, but before the costs in the affected cost center are allocated. Similarly, provision is made to adjust the costs of certain patient care cost centers after overhead costs have been allocated. We intend that the manner in which these cost adjustments are to be made will be mandatory for all cost reporting periods beginning on or after the effective date of the implementation of the Annual Hospital Report.

(4) *Apportionment of provider-based physician payment.* The current cost reports require hospitals to apportion to titles, V, XVIII and XIX the payment for professional services rendered by hospital-based physicians using combined billing. Where hospitals accept assignment of billing from provider-based physicians but do not use combined billing, fiscal intermediaries are currently required to perform a reconciliation between the amounts paid for professional services furnished by provider-based physicians and amounts received or receivable from the area carrier for such services. After computing the reconciliation, the fiscal intermediary is required to make settlement with the hospital for any difference.

For cost reporting periods beginning on or after the effective date for the implementation of the Annual Hospital Report, the settlement for any such difference will be part of the settlement in the provider's annual cost report. To accomplish this, hospitals will be required to compute the apportionment of payment for professional services of hospital-based physicians not using combined billing and to report amounts received or receivable from the area carrier.

The process of apportioning the payment of provider-based physicians not using combined billing is not new. As indicated above, this process is currently carried out by the fiscal intermediary at the time that the provider cost report is settled. Incorporating the apportionment in the provider cost report is merely a procedural change which could be done at any time. HCFA proposes to adopt this procedural change concurrently with the Annual Hospital Report as a matter of convenience.

(5) *Outpatient services for titles V and XIX.* The current cost reporting forms provide for the computation of cost only for inpatient services for titles V and XIX for those States that use Medicare's principles of reimbursement for cost reimbursement and use the Medicare forms to determine reimbursement.

For cost reporting periods beginning on or after the effective date for the implementation of the Annual Hospital Report we intend to provide for settlement for outpatient services for titles V and XIX in the Annual Hospital Report. This will apply to those States that reimburse for inpatient or outpatient services for titles V and XIX using Medicare's principles of reimbursement and elect to use the Medicare forms to determine cost reimbursement.

Changes to Medicare and Medicaid Reimbursement Policies or Procedures That Will Be Implemented Before the Effective Date of the Implementation of the Annual Hospital Report

These changes do not appear in the cost reporting forms currently in use (HCFA–2552). However, modification to cost reporting forms to incorporate these changes will be made before the

implementation of the Annual Hospital Report.

(1) *Computation of inpatient routine service cost.* Provision is made for the application of cost limits as specified in the Schedule of Limits on Hospital Inpatient General Routine Operating Costs published annually in the Federal Register.

(2) *Apportionment of the cost of malpractice insurance.* Provisions is made for the apportionment of the costs of malpractice insurance in accordance with the revision to 42 CFR 405.452 published in the Federal Register on June 1, 1979 (44 FR 31642).

(3) *End Stage Renal Disease Provisions.* This draft of the Annual Hospital Report contains tentative provisions for reimbursement for reporting under various aspects of the end stage renal disease program contingent upon the issuance of final regulations.

(4) *Outpatient Physical Therapy purchased from oustide suppliers.* A worksheet is furnished for computing the limit on the cost of outpatient physical therapy services purchased from outside suppliers.

E. Requires Uniform Accounting

1. *Comment.* The proposed uniform report effectively requires uniform accounting.

Response. The Annual Hospital Report does not require uniform accounting. The proposed uniform report contains an accounting structure to be used for guidance only. This is essential for two reasons. Pub. L. 95–142 requires hospitals to report costs and volumes by functional cost center utilizing a prescribed chart of accounts, definitions, principles and statistics. However, the only requirement for this accounting structure is that it be used for making the necessary reconciliation for uniform reporting. this can be accomplished without disturbing a hospital's responsibility accounting system.

The second reason for an accounting structure is to have a basic accounting system available to meet the legislative requirement that the Secretary "encourage State adoption of such systems." This should assure uniformity in State-mandated accounting and reporting systems and prevent the use of a different system by each State.

Automated accounting systems can be designed to accumulate information in classifications most useful for management planning and control purposes and, at the same time, produce financial data according to functional definitions. The hospital's general ledgers can be arranged in different coding sequences to meet internal and external reporting needs. Hospitals that have this capability should have little difficulty in producing the functional trial balance required by the Annual Hospital Report.

To make clear that the Annual Hospital Report does not require uniform accounting, we have removed certain portions of the manual including all of the subaccounts in the Chart of Accounts and most of the Natural Classification of Expenses; the Account Distribution Index; Figures I, II, and III-Numerical Coding System; the examples of how certain transactions would be recorded; and portions of Chapter I by referencing, where appropriate, General Accepted Accounting Principles (GAAP), statements by the Financial Accounting Standards Board (FASB), and the AICPA Hospital Audit Guide. The subaccounts and distribution index, the numerical coding system and examples will be available upon request.

F. Other Comments

1. *Comment.* The proposed uniform report will not achieve an accurate or realistic comparison of hospital costs.

Response. Experience in States having uniform reporting systems similar to the proposed system demonstrates that year-to-year and hospital-to-hospital comparisons can be made by measuring productivity and costs as reported under those systems. In addition to functional definitions, the proposed uniform report prescribes Standard Units of Measure which provide a method of determining unit costs and revenue. The use of existing and anticipated data systems in conjunction with Annual Hospital Report data will make possible more sophisticated peer grouping of hospitals, and comparisons of their productivity and costs.

2. *Comment.* Uniform report information should not be disclosed.

Response. Information contained in the uniform reports will be made available to health systems agencies, State health planning agencies, and upon request, to any other agency, organization or individual. The decision to make this information available to any other agency or organization is predicated on the fact that section 1121(c) of the Social Security Act mandates that we make the information available to "appropriate agencies and organizations including * * * State health planning and development agencies (designated under Section 1521 of (Public Health Service) Act)". These agencies are already subject to a statutory requirement that they disclose their records and data to the public upon request. For this reason the information contained in the reports would eventually be available to the public. The information will be furnished in routine form specified by HCFA. If any agency or organization requests a further breakdown of this information, it will be required to pay for the additional cost.

The issue of whether cost report data should be made available to the public has been the subject of litigation under the Freedom of Information Act. Our regulations, at 20 CFR 422.435, currently make hospital Medicare cost reports available to the general public upon request. Several courts have enjoined the release of these reports, based upon the Freedom of Information Act while several other courts have upheld disclosure. However, these cases were decided before the implementation of section 1121(c). In our view, the implementation of section 1121(c) will form a basis for the Department to request that those courts which enjoined disclosure reconsider their orders and to successfully oppose future suits.

3. *Comment.* The comment period should be extended to allow more time for review of the manual.

Response. Although HCFA did not officially announce the availability of the draft manual until January 23, 1979, we began distributing the draft manual in October 1978. Many hospital-related publications announed the availability of a draft copy and recommended that hospitals write for copies. Over 10,000 copies were distributed.

The 90 days which were provided for public comments was longer than required or usually provided for proposed rules. In addition, this NPRM provides a new opportunity for public comment.

4. *Comment.* Implementation of uniform reporting should be delayed until it can be tested.

Response. Reporting systems that are very similar to the proposed system already have been tested extensively. A number of States have implemented functional reporting. Prototypes of the proposed system were implemented in California effective July 1, 1974, Washington effective October 1, 1974, and Arizona effective July 1, 1976. In addition, New York, under a HCFA grant, implemented a similar system effective January 1, 1979. Some of the results of that implementation were discussed earlier in this preamble. Maryland and Massachusetts have adopted early versions of the uniform report. Therefore, six States, encompassing approximately 21 percent of the nation's non-Federal hospitals, are now subject to reporting under uniform reporting systems similar to that

originally proposed by HCFA. We have closely monitored the New York implementation and have made some revisions in our proposal based on their experience. We believe that further testing is not necessary.

42 CFR Chapter IV is amended as set forth below:

A. The Table of Contents of Subchapter A is amended to read as follows:

SUBCHAPTER A—GENERAL PROVISIONS

Part
400–401 [Reserved]
402 Uniform Reporting Systems
403–404 [Reserved]

B. A new Part 402 is added, to read as follows:

PART 402—UNIFORMED REPORTING SYSTEMS

Subpart A—Hospital Reporting

Sec.
402.1 Definitions.
402.2 Statutory provisions.
402.3 Applicability.
402.8 Reporting requirements.
402.10 Availability of information.

Authority: Secs. 1102, 1121, 1861(v)(1)(F), and 1902(a)(40) of the Social Security Act (42 U.S.C. 1302, 1320a, 1395x(v)(1)(F) and 1396a(a)(40)).

§ 402.1 Definitions.

"Act" means the Social Security Act.

"HCFA" means the Health Care Financing Administration.

§ 402.2 Statutory provisions.

(a) Section 1121(a) of the Act requires that the Secretary establish a uniform system for reporting of;

(1) Costs and volume of health care services;

(2) Rates charged for those services;

(3) Capital assets of health care facilities and organizations;

(4) Discharge data; and

(5) Billing data.

(b) Sections 1861(v)(1)(F) and 1902(a)(40) of the Act require Medicare and Medicaid providers to report in accordance with the system established under section 1121(a) of the Act.

§ 402.3 Applicability.

This subpart applies to all hospitals participating in the Medicare or Medicaid program.

§ 402.8 Reporting requirements.

Under the Annual Hospital Reporting System established by HCFA, hospitals must meet the following requirements:

(a) *Information to be reported.* Hospitals shall report: (1) Costs of operation and volume of services, both in aggregate and by functional accounts; and

(2) Capital assets.

(b) *Manner of reporting.* The hospital shall report in accordance with the forms and instructions prescribed by HCFA.

(c) *Timing and submission of reports.* (1) *Initial report.* The initial report under the system shall be for the hospital's first fiscal year that begins more than 6 months after the effective date of these regulations.

(2) *Submittal.* The hospital shall submit annual reports no later than the last day of the third month following the close of its fiscal year to;

(i) its Medicare intermediary (or the Medicare Division of Direct Reimbursement); or

(ii) if the hospital is participating only under Medicaid, to the Medicare intermediary designated by HCFA.

(3) *Extension.* The intermediary after obtaining HCFA's approval, may, for good cause shown by the hospital, grant a 30-day extension for submitting the report.

§ 402.10 Availability of information.

HCFA or its agents will, in a timely manner, provide information collected under this subpart to:

(a) health systems agencies and State health planning and development agencies that need it to carry out their functions; and

(b) upon request, to any other agency or organization.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

C. Section 405.614 of Subchapter B is amended by revising paragraph (a)(3) to read as follows:

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement (and in the case of a skilled nursing facility, prior to the end of the specified term of such agreement—see § 405.604) if the Secretary determines that the provider of services:

* * * * *

(3) Fails to furnish information as the Secretary finds to be necessary for a determination as to whether payments are due or were due under this Part 405 and the amounts thereof (including the filing of uniform reports prescribed by the Secretary); or

PART 433—STATE FISCAL ADMINISTRATION

D. Part 433 is amended by adding a new § 433.39 to read as follows:

§ 433.39 Uniform reporting: State plan requirements.

A State plan for medical assistance must provide that the State agency will require providers that are specified in Part 402 of this chapter to meet the applicable requirements of Part 402 with respect to uniform reporting.

(Sec. 1102, 1121, 1861(v)(1)(F) and 1902(a)(40) of the Social Security Act (42 U.S.C. 1302, 1320a, 1395x(v)(1)(F) and 1396a(A)(40)) (Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance)

Dated: December 10, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: March 11, 1980.

Patricia Roberts Harris,

Secretary.

Draft, Regulatory Analysis, Proposed System for Hospital Uniform Reporting

Department of Health, Education, and Welfare, February 1980

This analysis should be read in conjunction with the preamble to the proposed regulations, which provides greater detail in the alternatives presented and presents background on the System for Hospital Uniform Reporting. This draft does not contain all of the details and calculations and supporting materials used by the Department. Requests for copies of the draft or explanations of specific items can be addressed to the Office of Research, Demonstrations and Statistics, Department of Health, Education, and Welfare, 200 Independence Avenue, SW, Washington, D.C. 20201, Attn: James M. Kaple, Acting Director.

Introduction

Executive Order 12044, "Improving Government Regulation", was issued by President Carter on March 23, 1978. The Order requires, among other things, that regulations be drafted to assure that compliance burdens be held to a reasonable minimum. The Order also requires that regulations with "major economic consequences" receive a "Regulatory Analysis." The threshold level for a Regulatory Analysis includes not only those regulations which impose annual costs of $100 million or more, but also those which meet discretionary thresholds set by the agency. Although hospital uniform reporting will not meet the $100 million threshold, it does meet two discretionary thresholds—a $100 million difference between high and low cost options, and exceptional controversy over costs—recently

adopted by HEW (see Federal Register, Vol. 44, No. 201, October 16, 1979). Accordingly, this Regulatory Analysis was prepared to accompany the proposed regulations.

Summary of Draft Regulatory Analysis

In analyzing the effect of this proposed regulation on hospitals we compared seven alternatives for implementing a uniform reporting system out of the literally hundreds we could devise. They range from total conversion of a hospital's day-to-day accounting system to a uniform method to retention of the current Medicare reporting system. Although HCFA does not have the authority to require the first of these alternatives (total conversion of a hospital's accounting system) and the last is contrary to the mandate in Pub. L. 95–142, we included them since they represent both ends of the spectrum; thus, they indicate the entire range of marginal cost/burden from $0 to $208 million for the first year of implementation. These figures were extrapolated from a study conducted for HCFA by Morris, Davis and Company of a random sample of fifty hospitals across the United States. The study was commissioned to provide a basis on which to estimate the nationwide implementation and operational cost and burden of the System for Hospital Uniform Reporting (SHUR) published for comment January 23, 1979 in the Federal Register (44 FR 4741). We involved the American Hospital Association and the Hospital Financial Management Association in developing the methodology for the study. They also reviewed the sample of hospitals before the study was commenced.

In seeking the most cost beneficial alternative, we utilized public comments on the January 23, 1979 Notice of Proposed Rulemaking (NPRM) and the results of the Morris, Davis and Company study. We have arrived at an alternative which, in our judgment, is most cost effective because it substantially eases the reporting burden while maintaining the quality of data at a level to meet our needs. This alternative requires reclassification of hospital data to functional reporting definitions, but allows us to obtain quality data at low cost by:

1. Allowing sampling of statistics;
2. Requiring only limited direct costing to the cost center in which the costs occur;
3. Minimizing the number of standard units of measure which must be reported;
4. Increasing the dollar level or threshold that a set of functions must reach in a cost center before the costs must be broken out and reported in separate centers; and
5. Making several other changes from earlier proposals to reduce the difficulty of reporting.

A detailed discussion of these changes is found in the proposed rule which accompanies this document.

Using these approaches, we estimate that the proposed system will cost about $37 million annually, about one-fourth of the cost of total conversion of accounting systems to a uniform method. $37 million represents only about one twentieth of one percent of the $70.9 billion in total hospital costs in the United States. The one-time start-up cost will be about $19 million [1] less than one third of one percent of the annual increase in hospital costs. Put another way, the average hospital has annual costs of $10 million of which it bills Medicare and Medicaid approximately $3.6 million. The proposed system will add less than $2,700 in start-up costs and about $5,300 in annual costs to the budget of the average hospital. Offsetting benefits to hospitals themselves, though difficult to estimate, could easily exceed this amount. For example, a hospital would be able to identify services for which its costs were above those of comparable hospitals, and make management improvements. Management improvements of even 1 percent a year in efficiency would produce savings several times greater than the costs of uniform reporting. We do not expect a significant affect on reimbursement in the aggregate although uniform cost reporting will eliminate inequitable reimbursement. As a result, we have not estimated any savings to the Federal government arising from uniform cost reporting.

All of the alternatives we considered which could be implemented under the law, meet the purpose of uniform reporting. The purpose is to obtain comparable cost and related data from all hospitals participating in Medicare and Medicaid. The data will be used:

- To provide a more rational and equitable reimbursement system for HCFA;
- To improve the capacity to detect fraud, abuse and waste;
- To provide year-to-year and inter-institutional comparisons of hospital expenditures, productivity and utilization of services;
- To support cost containment objectives;
- To reduce burden of other data collection requirements on hospitals;
- To assist private, local, State and Federal agencies and health planners to carry out their respective program objectives;
- To support informed policy decisions and effect reimbursement reform for Federal programs;
- To assist State regulators in carrying out State program objectives; and
- To provide hospitals with comparative information to facilitate more productive use of resources.

Each of the alternatives we examined would substantially promote the achievement of these objectives. However, when the alternatives are contrasted it is clear that there is a steady decrease in cost and reporting burden without a comparable decrease in the number of reporting items, accuracy and reliability of the data obtained.

We cannot justify the substantially greater costs and reporting burden of the higher cost alternatives on the basis of a more modest increase in the degree of accuracy and the degree of opportunity to use data for more sophisticated analysis.

The Annual Hospital Report will provide, at a minimum cost, an accurate comparison of the efficiency and costs of hospitals under the Medicaid and Medicare programs.

Background

When the Medicaid and Medicare programs began, their expenditures for all hospital services, representing 20 percent of the total, were approximately $3 billion. In 1978, total Medicaid and Medicare hospital expenditures exceeded $25 billion—a staggering increase. The two Federal financing programs reimbursed over 35 percent of the almost $70.9 billion this country spent on hospital care.

The Annual Hospital Report has been developed in direct response to the legislative mandate contained in Section 19 of Pub. L. 95–142. The legislation to require improved financial and statistical data has grown from Federal, State and local government concern over the rising costs of health care. Attempts to control institutional costs through rate regulation and peer group limits on rates of increase (Section 223 of the 1972 Social Security amendments) led to the realization that current methods of reporting the costs and volume of services do not provide adequate data to make accurate, comparable, and equitable reimbursement decisions.

[1] The actual cost for individual hospitals could vary widely. Costs will be negligible in States that have already adopted uniform reporting systems. For others the costs could be higher.

Congress recognized this and in 1974 passed the National Health Planning and Resources Development Act (Pub. L. 93–641). Section 1533(d) of this act set as a national priority of the Federal government, the development of uniform systems of cost accounting, reporting, classification, and rate setting for institutional health care providers. In October of 1977 Congress passed Pub. L. 95–142—generally known as the Medicare-Medicaid Anti-Fraud and Abuse Amendments. Section 19 of this law requires the Secretary to establish by regulation a uniform system for reporting cost and volume data for the various functional activities in health services facilities which receive payments under titles XVIII and XIX. Uniform reporting systems are also required for discharge and billing data.

Section 19 does not mandate uniform accounting. Rather, Section 19 requires a hospital to employ a chart of accounts, definitions, principles and statistics prescribed by the Secretary in order to reconcile (or reclassify) data from its own internal accounting system to specified functional cost centers in a uniform reporting system.

The Congress specifically defined a number of requirements. For example:

No day-to-day accounting system was to be required.

A functional chart of accounts was to be developed.

The chart of accounts, definitions, and principles specified by the Secretary were to be employed in reconciling a hospitals internal records to the reporting system.

The Committee Reports of the Senate Finance Committee, House Committee on Ways and Means, and House Committee on Interstate and Foreign Commerce on Section 19 of Pub. L. 95–142 illustrate the Congressional concern about existing reporting requirements. They include the following statements:

"A persistent problem under the Medicare and Medicaid programs, as currently structured, is the presence of variations in the information contained in the Medicare and Medicaid cost reports."

"The committee(s) believe it is necessary to correct the deficiencies in the present reporting system under these programs."

"The existence of comparable cost and related data is essential for:

Effective cost and policy analysis.

Assessment of alternative reimbursement mechanisms.

Identification and control of fraud and abuse."

"Each institution * * * performing a function * * * should be required to report on * * * functions in the same way, e.g., * * * x-ray costs."

Current Medicare reporting requirements allow great flexibility with regard to grouping and presentation of cost information. The new reporting requirements will limit some of those options. Under the proposed rule hospitals would be required to report cost and utilization data in accordance with the Annual Hospital Report.

The Annual Hospital Report will totally integrate functional reporting requirements with the Medicare cost report. This new report will continue to be submitted to the fiscal intermediaries.

We have taken great care in the development of this reporting system to alleviate unnecessary reporting burden and to coordinate and consolidate reporting for the HCFA programs with other Department reporting requirements to the extent possible. The AHR also incorporates the Health Facilities Minimum Data Set currently reported separately to the Public Health Service.

The NPRM would require that the uniform chart of accounts, definitions, principles and statistics specified be employed as a tool for hospitals to reconcile their internal books and records to meet the functional reporting requirements. This NPRM would *not* require institutions to implement the chart of accounts for their day-to-day accounting system. The reporting requirements include clear, concise specifications of what costs are to be included in each of the various functional cost centers for reporting purposes.

We chose the functional cost center approach because (a) it is the single available method of obtaining cross-hospital comparable data and (b) it is required in the legislation. The number of functional cost centers in the Annual Hospital Report approximate those in the American Hospital Association chart of accounts and the accounting systems operating in California, Washington and Arizona.

The report also contains specific statistical requirements for each cost center. These statistics are necessary in order to meet the legislative mandate to obtain data which can be used to make comparisons of productivity among hospitals. We have carefully selected these statistics after consultation with the industry over the past three years. We believe they are the best productivity statistics available today.

Section 19 requires the Secretary, in the development of uniform reporting systems, to consult with interested parties. We have consulted extensively over a period of more than two years with major industry associations, accounting firms, health planners, and other interested parties. We have held meetings with these organizations and have received their comments on draft versions of the proposed system.

We published a Notice of Proposed Rulemaking for these regulations on January 23, 1979, in the Federal Register (44 FR 4741). We provided 90 days for public comments. We distributed more than 10,000 copies of the draft manual to interested parties. During this period, we received approximately 2,237 communications in response to the proposed rule. Among those who wrote were 1,550 hospitals, 98 hospital and professional associations, and 46 accounting and consulting firms, as well as individual members of Congress, State and local health planning agencies, rate setting agencies, insurance companies, professional groups, and consumers.

We have avoided technical language in this analysis to the greatest possible extent (except where absolutely necessary to convey the meaning desired). To place this analysis in perspective for the public at large, we have attached a glossary of many of the terms used in this analysis.

Analysis of Alternatives

In preparing the AHR, HCFA sought to identify burden reducing alternatives, as required by E.O. 12044. Out of the literally hundreds of possible approaches which could be considered in developing alternative hospital cost reporting systems we have considered five basic alternatives which represent meaningful options. For comparison purposes, we have added two additional alternatives which we do not have the authority to implement under current law but which represent the highest and the lowest cost options.

The first alternative, Alternative A, provides the most comprehensive and highest quality data and entails the complete conversion of hospital accounting systems for both uniform accounting and uniform cost reporting purposes. It is the most costly alternative and is provided for comparison purposes only since we do not have the authority to implement a system of this scope. Alternative F provides less comprehensive and lesser quality data at significantly lower cost while meeting HCFA's basic needs as stated in the statute. Alternative G was included for comparison purposes only, since it does not meet the requirement of the law. Figure 1 attached identifies the projected average cost to hospitals of each alternative by start up (planning and other one-time costs) and annual operating costs. The actual cost to a hospital will be negligible for the 21 percent of the hospitals in States that

have already adopted uniform reporting but will be higher than average for others. All of the alternatives assume that uniform reporting will be linked to reimbursement. Although the industry has suggested that they provide uniform data on one report and be reimbursed on the basis of a different report, we do not consider that a viable, nor legally defensible alternative. Therefore, we have not included it in this analysis. These changes and cost differences are more clearly articulated in the description of each alternative listed below:

It is important to note that the full effect of the reduced reporting burden reflected in Alternative F is not displayed in our charts. Probably the most important burden measure for the small hospital is the definition of "significance." Costs which had reached a "significant" dollar threshold must be reclassified to the proper cost center while smaller amounts which do not meet the threshold need not be broken out and reported in separate centers. The currently proposed alternative raises the level of "significance" from $1,000 or 1 percent of the direct costs of the center to the greater of $5,000 or 5 percent of the direct costs of the center. No costs which are below these amounts need be adjusted for reporting purposes. This greatly reduces the number of entries for smaller hospitals as compared to the earlier NPRM. The reduction in burden resulting cannot be specifically measured.

Raising the threshold to $5,000 in itself is an important amount to a small hospital. However, the five percent alternative could raise the amount easily to twice that figure. For example, a small hospital having total expenses of only $2 million (about 50 beds) could easily have $200,000 of its costs in a partiuclar cost center. For that cost center no reclassification of a particular set of costs to a separate center would be required until it exceeds $10,000 (5 percent of the $200,000).

Listed below are the seven alternatives which we assessed and compared when developing and revising the manual. All of these alternatives except for Alternative G would have the following advantages and disadvantages in achieving the objectives of uniform reporting.

Advantages

1. Provide a more rational and equitable reimbursement system for HCFA.

The data format would accurately identify hospital costs for providing services without including extraneous factors which vary across institutions. It does so by concisely defining areas in which costs must be reported (cost centers) and the units related to the services provided by which these costs can be compared (Standard Units of Measure). The Annual Hospital Report will readily support and permit changes in reimbursement methodology—changes which are facilitated by the accurate comparisons it makes possible.

2. Improve the capacity to detect fraud and abuse.

Cost data by functional category could be compared as a tool in identifying instances of fraud, abuse and waste.

3. Provide year-to-year and inter-institutional comparisons and monitoring of hospital expenditures, productivity and utilization of services.

Comparable data would highlight hospitals whose costs, productivity or utilization of services are disproportionate to the services rendered.

4. Support cost containment objectives.

The data would provide an indispensible tool in establishing rational limits on hospital costs and in providing equitable reimbursement to hospitals regardless of the reimbursement methodology employed.

5. Reduce other data collection on hospitals.

The Annual Hospital Report meets the Hospital Facilities Minimum Data Set (HFMDS) needs of the National Center for Health Statistics. Incorporating the HFMDS items in the report, alleviates the need for many of the current hospital surveys. Total savings to hospitals cannot be estimated with precision but are probably in the millions of dollars annually.

In addition, as many as eight states are actively considering requiring uniform cost reporting (over and above the six States which already had one), so that AHR will provide a base data set that needs only those supplements a State wants for its unique circumstances. This would substantially avoid the need for States to develop their own separate systems and should reduce collection, processing and auditing costs at the State level.

- Assists private, local, State and Federal agencies and, health planners to carry out their respective program objectives.
- State agencies—measure health status of the population; recognize patterns of utilization; evaluate effectiveness of programs.
- Health planners—gather inventory of health services, measure utilization of services; find cost efficiencies; evaluate financial feasibility of projects.
- Lending institutions and investors—aid in deciding the financial viability of projects for debt financing.
- State regulators—reimbursement and other policy analysis.
- Hospital management—evaluate of the competitive position of the institution, help measure departmental productivity, help develop charge schedules.

Disadvantages

1. Hospitals would incur additional cost because of the collection and reporting of more data than previously gathered.

2. Other advantages and disadvantages specific to the various alternatives are listed with the alternative to which they apply.

Alternative A

Description

This alternative would require hospitals to report financial (revenue and expense) and statistical data using the System for Hospital Uniform Reporting (SHUR) as promulgated in the January 23, 1979 NPRM, but in addition, adopt and use on a day-to-day basis as their actual accounting system the functionally defined revenue/cost centers containted in the chart of accounts set forth in the SHUR manual. In addition, the required statistical data would be accumulated daily in the books and records of the hospital. No reclassification or sampling to collect the data would be necessary, for the data to complete the required uniform reporting portion of the SHUR report would come directly from the hospital's books and records.

The statute does not allow HCFA to require hospitals to use a uniform accounting system on a day-to-day basis but it is included here for comparison purposes. However, hospitals could elect to implement SHUR for accounting as well as for uniform reporting purposes, and HCFA would reimburse hospitals for a proportion of the expenses incurred as part of its share of administrative overhead.

Estimated Cost

Based on the study completed by Morris, Davis and Company, we estimate the first year cost for adoption of SHUR as an accounting system in 1978 dollars to be $208.3 million for hospitals nationwide, with a possible standard error of plus or minus $43.9 million. We estimate the annual cost for the second and subsequent years to be $132 million. The average first and second year cost per hospital is

approximately $30,420 and $19,280, respectively.

In order to arrive at these estimates we used a sampling frame of the 1975 providers of services files of short term hospitals. This file contained 5,870 Medicare and Medicaid providers grouped into five bed size categories. The 1978 providers of services file contains 6,167 short-term and 681 long-term providers. These were allocated to the bed size categories under the assumption that the distribution by bed size was the same in 1978 as it was in 1975.

The costs used in this extrapolation were developed in the following way for each hospital in the study:

1. Hospitals completed questionnaires to identify differences between current data capabilities and the reporting requirements.
2. Questionnaires were reviewed by hospital and project staff to list differences (called incompatibilities).
3. Staff determined whether incompatibilities could be resolved by simple reclassification.
4. Where a simple reclassification for an incompatibility was not possible, staff determined, in conjunction with hospital staff, a reasonable and acceptable estimation approach for obtaining data.
5. For each incompatibility, staff and hospital management determined:

Hospital person who would perform function
Related salary and fringe benefits
Extra staff required
Whether "new hires" were necessary
Cost of additional supplies and equipment
Incemental computer costs

6. Staff determined hospital system to be modified for each incompatibility.
7. Staff documented nature of each system: reports generated, input forms, method of processing, type of computer, and other relevant characteristics.
8. Staff and hospital personnel determined most likely approach to implement the changes.
9. Staff and hospital personnel determined incremental components of costs.
10. Staff summarized cost estimates and reviewed with hospital management.
11. Project managers reviewed findings and documentation.
12. Staff sorted and analyzed cost estimates and documentation.

Once these study costs were identified, the 1978 bed size frequencies were applied to the average first year cost determined for each bed size grouping reviewed by the study (see Figure 2).

This estimate is comparable with that of the $180 million figure mentioned by the American Hospital Association in testimony before the Subcommittee on Health of the House Committee on Ways and Means on the cost of implementing SHUR. This association has continually contended that hospitals would have to implement the uniform reporting system on a day-to-day basis, and has prepared its cost estimates on that basis, even though SHUR (and AHR) do not in fact impose such a requirement.

Additional Advantages of This Alternative

1. Once the system was implemented by the hospitals, reporting demands of HCFA and of virtually every pertinent regulatory body could be met easily and at minimum additional cost.
2. No reclassification of the recorded financial and statistical data would be needed to transcribe the data onto the prescribed reporting forms.
3. Hospitals would be able to keep accurate and up-to-the-minute account of the requirements for and consumption of their resources of goods, capital and labor and productive output of services rendered.
4. Hospitals would have an effective means of ascertaining their own efficiency when measured against other providers, since they could compare their cost data accurately on a local, regional or nationwide basis.
5. The report would provide the most comprehensive and highest quality information.

Additional Disadvantages of This Alternative

1. Hospitals would have to reorganize their internal organization and data systems to coincide with the functional definitions set forth in SHUR.
2. This is by far the most costly alternative (see Figure 1).

Alternative B

Description

This alternative would require hospitals to report financial (revenue and expense) and statistical data using the System for Hospital Uniform Reporting (SHUR) as promulgated in the January 23, 1979 NPRM. This alternative differs from Alternative A as follows:

1. Hospitals would not adopt SHUR as their actual accounting system or use the SHUR chart of accounts, definitions and principles on a day-to-day basis.
2. Hospitals would reclassify (adjust) their cost into the SHUR cost centers at the end of their fiscal year.

Hospitals would report financial data by reclassifying data from the hospital's books and records to meet the reporting system specifications. Cost studies would be allowed to determine the amounts to be reclassified. Direct assignment of costs as they are incurred to specified cost centers of the following expense items would be required:

1. Depreciation on movable equipment
2. Payroll-related employee benefits
3. Non-payroll-related employee benefits
4. Non-chargeable supplies
5. Non-chargeable drugs
6. Non-capitalizable non-routine maintenance and repairs
7. Data processing services
8. Central patient transportation

This alternative would require hospitals to accumulate actual counts of Standard Units of Measure and other statistical data. No sampling would be allowed to collect these data.

Estimated Cost

Based on the Morris, Davis and Company study, the first year cost of this alternative would be $106 million (approximately $15,480 per hospital) or approximately 49 percent less than Alternative A. This lower cost results primarily because hospitals can avoid revising their internal accounting system.

The annual cost for the second and subsequent years is estimated to be $87 million, or approximately $12,700 per hospital.

Additional Advantages of This Alternative

This alternative would allow hospitals to maintain their responsibility-oriented accounting system. Hospitals would meet the financial data reporting requirements by reclassifying such data from their books and records. Hospital strongly support the need for an organizationally oriented accounting system in order to effectively manage their operations; therefore, this alternative would be more favorable to them.

Additional Disadvantages of This Alternative

The disadvantage of this alternative compared to Alternative A is that any trends or comparisons could be made only on an annual basis when the data were aggregated and furnished in the required form. However, we believe that even on a yearly basis comparison would be invaluable to the providers and the authorities who regulate them.

Alternative C

Description

This alternative would require hospitals to report financial and statistical data using SHUR as

promulgated in the January 23, 1979 NPRM and as outlined in Alternative B except that sampling of Standard Units of Measure and other statistical data would be permitted.

Estimated Cost

This alternative was the subject of option 1 of the Morris, Davis and Company study. The first year cost extrapolated by HCFA is estimated to be $70 million for all hospitals nationwide (approximately $10,220 per hospital), or a 66.4 percent savings over Alternative A. The second and subsequent years' annual cost is estimated to be $51 million, or approximately $7,450 per hospital.

Additional Advantages of This Alternative

Hospitals could maintain their responsibility-oriented accounting systems and meet the reporting requirements of SHUR through reclassification of data as necessary.

Additional Disadvantages of This Alternative

The disadvantages of this alternative are the same as for Alternative B. In addition, from a statistical viewpoint, there would be some decrease in the reliability of the data gathered. Statistics from data collected continuously should, in theory, be more reliable than those extrapolated from data collected only on a sample basis. However this alternative should provide a reasonable means of accurately comparing the efficiency of various providers while providing them with a tool to make more effective use of their resources.

Alternative D

Description

This alternative would require hospitals to report financial and statistical data using SHUR as promulgated in the January 23, 1979 NPRM except that sampling of statistical data would be allowed and the number of items to be direct costed to the cost centers in which the costs are incurred has been limited. Of the direct-assignment expenses (expenses placed directly in cost centers without apportionment) listed in Alternative B, only the following expense items would be retained:

1. Payroll-related employee benefits
2. Non-chargeable supplies
3. Data processing services

Estimated Cost

The first year cost of this alternative is estimated to be $62 million approximately $9,100 per hospital or about 70 percent less than Alternative A. The annual cost for the second and subsequent years is estimated to be $43 million or approximately $6,300 per hospital.

Additional Advantages of This Alternative

The additional advantage of this alternative is the reduction in costs.

Additional Disadvantages of This Alternative

There would be a further decrease in the accuracy of expense data reported because fewer specified expenses would be assigned to cost centers actually incurring the expense.

Alternative E

Description

This alternative would be the same as Alternative D except the number of Standard units of measure (SUMs) to be reported would be reduced from 94 to 59. (Those SUMs eliminated are related to the non-revenue producing overhead cost centers).

Estimated Cost

The estimated first year cost of this alternative is $58 million (approximately $8,470 per hospital), or 72 percent less than Alternative A. This results from the elimination of 35 data items. The estimated cost for the second and subsequent years is $39 million, or approximately $5,700 per hospital.

Additional Advantages of This Alternative

The reporting burden is further reduced by the elimination of the collection and reporting of 35 data items.

Additional Disadvantages of This Alternative

There would be a loss in some data analysis capability in the areas of cost per unit of service. For example, the cost of the Medical Records activity could not be compared from one hospital to another as no standard measurement unit would be reported and comparison of total expenses to total expenses would be meaningless.

Alternative F

Description

This alternative would be the same as Alternative E except that the reporting burden would be reduced by making other changes to the SHUR, such as not requiring hospitals to report separate cost allocation statistics.

Estimated Cost

The first year cost of this alternative is estimated to be $56 million (approximately $8,000 per hospital), or a reduction of approximately 73 percent over Alternative. The estimated second and subsequent year cost is $37 million, or approximately $5,300 per hospital. additionally, these estimated do not include projected savings resulting from the fivefold increase in the reclassification threshold.

Additional Advantages of This Alternative

In addition to the advantages mentioned in Alternative E, the reporting burden would be reduced even more by elimination of the uniform reporting cost allocation data items and other miscellaneous changes.

Additional Disadvantages of This Alternative

None of serious consequence when compared to the benefit.

Alternative G

Description

This alternative would maintain the current Medicare reporting requirements without adding uniform reporting requirements.

Estimated Costs

There is no new cost for this alternative as hospitals would continue to report as they do now. However, many States are likely to require SHUR-like systems for their own purposes; therefore, hospitals might actually spend *more* than under alternative F.

Advantages

1. Hospitals *might* incur no additional cost, depending on the State.
2. Hospital systems changes would not be necessary.
3. No new data items would have to be collected.

Disadvantages

The following disadvantages would result if this alternative was selected.

1. HCFA would not meet the statutory requirement of Section 19 of Pub. L. 95–142.
2. Hospitals would continue to be reimbursed differently for identical costs depending on the accounting method used.
3. HCFA's capacity to detect fraud and abuse would not be improved.
4. No nationally uniform year-to-year and inter-institutional comparisons of utilization of service by program beneficiaries and cost of providing

services to beneficiaries would be prssible.

5. Data collected to support cost containment objectives, to support informed policy decisions, or to effect reimbursement reform for Federal programs would be considerably less useful.

6. No integration of the various HEW reporting systems would be possible, e.g., the Cooperative Health Statistics System would continue to exist as a separate reporting system.

7. Local, State and Federal agencies monitoring the health system would not have the benefit of comparable data.

8. A system to gather statistics to monitor health planning guidelines would have to be developed by each State.

9. Capability to monitor hospital expenditures, utilization and productivity would not be improved.

Alternatives Chosen

The General Accounting Office is its report to Congress on the System for Hospital Uniform Reporting stated that "For a number of reasons, we feel that HCFA's estimate of $70.2 could be overstated or understated." The report enumerated a number of reasons for this and went on to state "In our view, the biggest benefit of the Morris-Davis study was the identification of those SHUR requirements which impose the largest reporting burden for hospitals. This information has provided HCFA with some rational basis for modifying SHUR before it is issued in final form." We have used the Morris-Davis study and the public comments to identify the various alternatives which were listed above and to select a final alternative.

We chose Alternative F because it is the most cost-effective method of carrying out the mandate of the Congress for a uniform reporting system.

This alternative meets the purpose of uniform reporting which is to obtain comparable cost and related data form all participating hospitals. The specific objectives have been cited earlier.

The total first-year cost of this alternative is $56 million (one time cost of $19 million and annual cost of $37 million)* as contrasted with $208 million for Alternative A. This would be an average of $8,000 in the first year for each hospital ($2,700 for one-time start-up and $5,300 for operation) and an average of $5,300 for operation each following year. HCFA would pay approximately one-third of that cost as its share of administrative overhead. We cannot justify the immensely greater costs and reporting burden of the other alternatives on the basis of a substantially more modest degree of accuracy and a small increase in the data analysis opportunities.

This alternative will provide at a minimum cost of reasonably accurate comparison of the efficiency and costs of health care providers under the Medicare program.

Offsetting Benefits

We cannot estimate the benefits of implementing the proposed requirements. Nonetheless, we believe there is a significant possibility that hospitals could actually save money if the proposed requirements are adopted.

For example:

(1) Hospitals will be able to use the uniform data to make internal management improvements. Improvements of over 1 percent a year in efficiency would produce savings several times greater than the costs of uniform reporting.

(2) Overtime, hospitals should face less scrutiny and accompanying burden from the actual government which is caused currently by the inability to obtain comparably reliable data.

(3) Hospitals will report cost and health planning data on one report, rather than two, thus reducing reporting burden.

(4) Several states have already implemented uniform reporting. Over time, most States are expected to do so. Some of these systems do and can be expected to go beyond the AHR in the level of detail, therefore cost and burden. Others may not be as efficient or as effective. AHR will provide a basic data set that all States can use with a minimum amount of supplemental data to fulfill a variety of needs. By preventing the development of uncoordinated and duplicative reporting systems throughout the country, AHR will reduce significantly potential costs to States and hospitals.

Glossary

Accounting System—The principles, methods and procedures related to the incurrence, classification, recording and reporting of the financial transactions of an organization.

Chart of Accounts—A systematically arranged list of accounts identifying account names and numbers.

Functional Reporting—Reporting revenue and expense according to type of activity performed; i.e., Medical Surgical Acute, Radiology-Therapeutic.

General Accepted Accounting Principles (GAAP)—The body of doctrine recognized by the accounting profession as acceptable accounting conventions and procedures.

Natural Classification of Expense—Cost by object categories such as salaries and wages, employee benefits, supplies, utilities, etc.

Non-revenue Producing Cost Centers—Overhead units, such as dietary and patient accounting, that provide necessary support services but for which no charge is made to the patient.

Materiality/Significance—The relative importance of an item of cost when measured against a standard. Costs that exceed a defined standard (5% of cost center or $5,000, whichever is greater) must be broken out and reported in separate cost centers.

Reclassification—The realignment of financial data for specified activities, recorded in the hospital books and records to meet the reporting specifications.

Responsibility Reporting—Reporting revenue and expenses according to organizational units producing the revenue and responsible for incurring the expenses.

Revenue Producing Cost Centers—Hospital activities involving direct services to patients (such as daily hospital services, ancillary services and ambulatory services) and thereby generating revenue.

Standard Unit of Measure—A uniform statistic for measuring and comparing revenue, expense and productive output.

Uniform Reporting System—A system under which all parties report required data in the same way.

*The actual cost range is between $44 million and $68 million given the size of the sampling error in the Morris, Davis and Company study.

Cost of Implementation Alternatives

[In millions of dollars]

	Total startup cost	Total annual cost	Total first year cost	Percent acute inpatient expenditures (all hospital costs)	Description of alternatives
Alternative A	$76	$132	$208	0.293	Uniform accounting (not required by law).
Less savings from allowing reclassification	57	45	102	.....	
Alternative B	19	87	106	0.149	Only require year end reclassification of costs from hospital's responsibility accounting system to functional reporting
Less savings from allowing sampling of SUM's	0	36	36	.....	
Alternative C (Morris, Davis & Co. study)	19	51	70	0.099	Reclassification and allow sampling of SUM's rather than 100% data collection effort.
Less savings from limiting direct costing	0	8	8	.....	
Alternative D	19	43	62	0.087	Reclassification, sampling of SUM's and limiting requirements for most direct costing.
Less savings from limiting the number of SUM's	0	4	4	.....	
Alternative E	19	39	58	0.082	Reclassification, sampling of SUM's, limited direct costing and reducing the number of SUM's to be reported.
Less savings from other miscellaneous changes	0	2	2	.....	
Alternative F (HCFA recommendation)	19	37	56	0.079	Reclassification, sampling of SUM's, limited direct costing, limited reporting of SUM's and other miscellaneous changes.
Less savings from maintaining current reporting system	19	37	56	.....	
Alternative G	0–60	0–60	0–60	[1]0.000–0.084	Continue only current medicare reporting requirements (does not meet Pub. L. 95–142 minimum requirements).

[1] This figure could range up to $60 million if HCFA did not implement the Annual Hospital Report since States would implement uniform reporting on their own initiative. Several States have already implemented such systems while others have indicated interest. Hospital chains doing business in several States will be particularly hard hit in coping with multiple reporting systems.

Preliminary Estimates of the Cost of Total Conversion of a Hospital's Accounting System

Stratum	Type of State	Hospitals in universe	Hospitals in sample	Mean cost of sample hospitals	Estimated total cost	
1	UR	371	1	$2,501	$927,871	
	O	2,110	9	22,309	47,071,990	
2	UR	326	5	3,257	1,061,782	
	O	1,353	4	14,050	19,009,650	
3	UR	305	3	15,083	4,600,315	
	O	871	6	52,716	45,915,636	
4	UR	235	2	7,817	1,836,995	
	O	618	5	82,907	51,236,526	
5	UR	148	3	5,833	863,284	
	O	511	6	69,978	35,758,758	
		6,848	44	.....	208,282,807	Standard error=$43,900,000.

UR=Uniform reporting State.
O=Other.

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federal register

Wednesday
March 19, 1980

Part VIII

Environmental Protection Agency

Requests by Chrysler Corp. for Waiver of Effective Date for the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1438-8]

Revised Motor Vehicle Exhaust Standards for Carbon Monoxide (CO) for 1981 Model Year Light-Duty Vehicles for Certain Chrysler Corp. Engine Families

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes CO emission standards for 1981 model year light-duty vehicles belonging to certain Chrysler Corporation engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. 7521(b)(5).

EFFECTIVE DATE: March 31, 1980.

ADDRESSES: Information relevant to this rule is contained in Public Docket En-79-19 at the Central Docket Section of the Environmental Protection Agency (EPA), Room 2903B, 401 M Street, S.W., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Glenn Unterberger, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emission from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standards. Regulations implementing this requirement have established a CO standard, often referred to as the statutory standard for CO, of 3.4 grams per vehicle mile (gpm).

Section 202(b)(5) of the Act authorized the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light-duty vehicle model regarding which the Administrator can make certain findings. In these cases, the Act requires substitute CO standards for 1981 and 1982 model year light-duty vehicles as discussed below. Waiver requests considered here were submitted by Chrysler Corporation (Chrysler). The statutory criteria, my determinations regarding the criteria with respect to the vehicle models covered by the waiver applications, and my decisions to grant or deny the wavier applications appear in the consolidated decision published above. In that decision, I granted waivers covering the following vehicle models (engine families for purposes of that decision) for the 1981 model year only:

Manufacturer:	*Engine family*
Chrysler Corporation	2.2L
	2.6L
	5.2L/2V

One I have decided to grant waiver applications for these three 1981 model year vehicle models, the Act requires that I simultaneously promulgate regulations adopting emission standards not permitting CO emissions from 1981 model year vehicles of these Chrysler models to exceed 7.0 gpm. The Act further requires that I promulgate regulations establishing these standards no later than 60 days after I receive the waiver application in question. The public has received an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the consolidated decision which requires the promulgation of this rule. For these reasons, I find that providing notice and opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Orders 11821 and 11944 and OMB Circular A-107.

In addition, because the decision accompanying this rulemaking already is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking as well.

Dated: March 11, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines

1. 40 CFR 86.081-8(a)(1)(ii) is revised to read as follows:

§ 86.081-8 Emission standards for 1981 and later model year light-duty vehicles.

* * * * *

(a) * * *

(1) * * *

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile (2.11 grams per vehicle kilometer), except that carbon monoxide emissions from light-duty vehicles of the following 1981 model year engine families shall not exceed 7.0 grams per vehicle mile (4.35 grams per vehicle kilometer):

Manufacturer:	*Engine family*
American Motors Corporation	151 CID.
Chrysler Corporation	2.2 liter.
	2.6 liter.
	5.2 liter/2V.
General Motors Corporation	3.8 liter/231 CID-4V turbo-charged.
Lotus Cars, Ltd	2.0 liter.
Toyo Kogyo Company, Ltd	91 CID.
	120 CID.

(Sections 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7601(a))

[FR Doc. 80-8402 Filed 3-18-80; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1438-7]

Requests by Chrysler Corporation for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Fourth Consolidated Decision of the Administrator

I. Introduction

I am issuing this decision under section 202(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), in response to Chrysler Corporation's renewed requests for waiver of the effective date of the 3.4 grams per mile (gpm) carbon monoxide (CO) emission standard scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.

Section 202(b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later model year light-duty motor vehicles and engines.[1] The 1977 amendments to the Act, however, included a new provision authorizing the Administrator of the Environmental Protection Agency (EPA), under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 gpm CO standard scheduled to take effect for the 1981 model year.[2] These amendments require the Administrator to promulgate standards which do not permit emissions over 7.0 gpm for vehicle models receiving waivers.[3]

As part of my first consolidated decision on CO waiver applications, I considered requests from Chrysler for two-year waivers for eight 1981 model year engine families.[4] In that decision, I grnated two-year waivers for three of those families. I denied Chrysler's waiver requests for its 2.6 liter (L) and 5.2 L/2-Venturi (2V) engine families because I determined that effective control technology was available, even considering costs, driveability, and fuel economy, to enable these two families to meet the 0.4 gpm hydrocarbon (HC), 3.4 gpm CO, and 1.0 gpm oxides of nitrogen (NOx) emission standards by the 1981 model year.[5] I also denied waivers for Chrysler's 2.2L, 5.2L/Electronic Fuel Metering (EFM) and 5.9L engine families because Chrysler supplied insufficient emission test data on these families to establish that effective CO control technology was not available for them.

Chrysler has requested that I reconsider my decision to deny its waiver applications for the 2.2L, 2.6L, 5.2L/2V, and 5.2L/EFM engine families.[6] EPA held a hearing on Chrysler's request on November 5, 1979.[7] After considering the new information which Chrysler has submitted or which has otherwise become available to me, I have reexamined my determinations regarding Chrysler's waiver requests for the four engine families in question.

II. Summary of Decision

I have decided to grant waivers covering 1981 model year vehicles of Chrysler's 2.2L, 2.6L, and 5.2L/2V engine families. I am denying waivers covering 1982 model year vehicles of those engine families and 1981 and 1982 model year vehicles of Chrysler's 5.2L/EFM family.

I have reversed my earlier decisions to deny waivers for Chrysler's 2.2L, 2.6L, and 5.2L/2V engine families because of the risk which newly-available information indicates that Chrysler and the public will face of incurring severe adverse economic repercussions if I were to make an incorrect projection regarding the availability of effective control technology, considering costs, driveability, and fuel economy, to enable these three engine families to meet the 3.4 gpm CO standard. Specifically, the new information indicates that because of Chrysler's relatively unstable financial situation, incorrectly denying waivers for any of these Chrysler engine families is more likely to cause severe adverse economic repercussions to Chrysler and the public generally than an incorrect denial of a waiver request from any other manufacturer.

Moreover, the new information further indicates that 1981 model year vehicles of these three engine families face potential driveability problems. Given Chrysler's limited flexibility in applying alternative technology, these current driveability problems might prevent Chrysler from producing these engine

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[1] Regulations have established a general CO standard of 3.4 gpm for 1981 and later model year vehicles. 40 CFR 86.081-8(a)(i)(ii), 43 FR 37972 (August 24, 1978).

[2] Section 202(b)(5)(c) of the Act provides, in part: The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) Such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) All good faith efforts have been made to meet the standards established by this subsection;

(iii) The applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) Studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

For the sake of simplicity, this decision uses the term "technology" to encompass each of the items (i.e. "technology processes, operating methods, or other alternatives") listed in section 202(b)(5)(c)(iii) of the Act.

[3] Section 202(b)(5) requires the Administrator to reach a separate waiver decision for each vehicle model for which a manufacturer requests a waiver. Consistent with published guidelines for CO waiver applications (see 43 FR 47272 (October 13, 1978)), I have defined the term "vehicle model" to mean "engine family" as defined in 40 CFR 86.077-2 and 86.080-24(a)(2) through (a)(4)(1978). I have distinguished between engine families primarily on the basis of engine displacement.

[4] 44 FR 53376 (September 13, 1979). This consolidated decision also responded to waiver applications from five other manufacturers. I also have issued two other consolidated decisions on groups of waiver requests. See 44 FR 69417 (December 3, 1976) and 45 FR 7122 (January 31, 1980).

[5] These are the statutory standards which the Act has scheduled to take effect (absent a statutory waiver) in the 1981 model year. For the sake of simplicity, in discussing an engine family's ability to meet these standards, I will refer to this set of standards by citing merely the 3.4 gpm CO standard.

[6] Chrysler has not requested that I reconsider my decision to deny a waiver for its 5.9L engine family.

[7] The transcript of this hearing, the submissions from Chrysler supporting its renewed waiver request, and all other information considered as part of my fourth consolidated decision on CO waivers are included in EPA Public Docket EN-79-19. This docket includes the record for my third consolidated CO waiver decision and incorporates by reference the records for my first two consolidated decisions (EPA Public Dockets EN-79-4 and EN-79-17).

families under a 3.4 gpm CO standard in the 1981 model year in a manner that would be acceptable to consumers. Thus, a significant likelihood exists that a determination that effective control technology, considering costs, driveability, and fuel economy, is available to any of these three engine families for the 1981 model year may prove to be incorrect.

Because of the severe adverse economic consequences which Chrysler could experience, I have concluded that the potential driveability complications these three engine families might face, though perhaps avoidable, are likely enough to occur so that Chrysler has adequately established that effective control technology, considering costs, driveability, and fuel economy, is not available for these engine families for the 1981 model year.

I have determined that Chrysler's waiver requests for these three engine families meet each of the Act's requirements when the risks of an incorrect denial for the 1981 model year are considered; therefore, I am granting waivers to 1981 model year vehicles of Chrysler's 2.2L, 2.6L, and 5.2L/2V engine families. These risks arising from the possibility of an incorrect denial diminish considerably for 1982 model year vehicles of these engine families because Chrysler will have added time to deal with both the financial and driveability problems it will be facing in the 1981 model year. Accordingly, I have determined that Chrysler has failed to establish that effective control technology, considering costs, driveability, and fuel economy, will not be available to enable these engine families to meet a 3.4 gpm CO standard in the 1982 model year. As a result, I am denying waivers for 1982 model year vehicles of these engine families.

In addition, I am denying Chrysler's request for a waiver for its 5.2L/EFM engine family for both the 1981 and 1982 model years. I have concluded that the risk of an incorrect determination concerning the availability of effective control technology, considering costs, driveability, and fuel economy, is much less for these vehicles because Chrysler has failed to establish that the 5.2L/EFM engine family is at all likely to face cost, driveability, or fuel economy problems in meeting a 3.4 gpm CO standard. The record includes information demonstrating that this engine family is capable of meeting a 3.4 gpm CO standard with what Chrysler considers to be marketable driveability in the 1981 model year; thus risk considerations do not prevent me from determining that Chrysler's waiver request for this engine family does not meet the requirements of section 202(b)(5)(iii) of the Act and consequently from denying any waiver for this engine family.

III. Discussion

A. *New Information Relating to Chrysler's Waiver Requests*

Since I announced my first consolidated CO waiver decision, which in part denied waivers for the four Chrysler engine families at issue here, a considerable amount of new information has become available to me regarding Chrysler's relatively precarious financial situation. Specifically, the record I have considered in evaluating Chrysler's renewed requests for waivers covering these engine families includes new information regarding the severe losses Chrysler sustained during the latter part of 1979 and the heightened risks Chrysler is facing in maintaining a viable, competitive position in the U.S. automobile market.[8]

In addition, new information has become available regarding the capability of these four engine families to incorporate effective control technology to meet a 3.4 gpm CO standard by the 1981 model year, considering costs, driveability, and fuel economy. Specifically, Chrysler has virtually completed emissions testing on 1981 model year certification durability vehicles from these four engine families.[9] From these tests, Chrysler has developed deterioration factors applicable to each of these engine families.[10] Chrysler also has submitted driveability data on vehicles of these engine families, including composite driveability projections from pre-certification development vehicles from these engine familes.[11] Chrysler stated that these driveability projections are commensurate with the "calibrations" which Chrysler expects to use on production vehicles of these engine families to optimize their respective driveability and fuel economy capabilities while still providing assurance that they will meet Federal emission requirements in light of the deterioration factors applicable to these families.[12]

Chrysler also has advanced several challenges to the technological and legal bases of my earlier decisions to deny waivers for these engine families.[13] Although the new bases for my decisions here obviate the need for me to respond directly to many of these challenges, I have addressed those contentions which still might affect my new consolidated decision.

B. *Waiver Requests Granted*

1. *Assessing Chrysler's Risks.* In *International Harvester Co. v. Ruckelshaus,*[14] the United States Circuit Court of Appeals for the District of Columbia reviewed the decision of EPA's Administrator to deny a set of applications for a one-year suspension of the statutory 1975 model year light-duty motor vehicle emission standards, which included the 3.4 gpm CO standard. The statutory criteria for the decision at that time were substantially similar to the criteria now provided in section 202(b)(5)(C) of the Act.[15]

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[8] See Section III.B.1.a. for a fuller discussion of this new information.

[9] EPA issues certificates of conformity to cover motor vehicles which have demonstrated the capability to meet the requirements of regulations prescribed under section 202 of the Act, including the Federal emission standards. See 40 CFR 86.079-30 (1978). In order to determine conformity with Federal emission standards, EPA requires emissions testing of a prototype "durability vehicle" while that vehicle accumulates 50,000 miles. 40 CFR 86.080-26(a)(4)(1978).

[10] Deterioration factors for an engine family project the rates at which emision levels of each pollutant will increase while a vehicle from that engine family initially accumulates 50,000 miles. See 40 CFR 86.079-28(a)(4)(i)(B)(1978).

[11] Chrysler's 2/11/80 submission.

[12] See Chrysler's 1/30/80 and 2/11/80 submissions and transcript from November 5, 1979 Hearings, pp. 179, 182. These "calibrations" must include engine parameter settings which enable the low-mileage "emission data" vehicles to achieve emission levels which, when multiplied by the applicable deterioration factor, still meet Federal emission standards in order for the engine family represented by these vehicles to receive a certificate of conformity. See 40 CFR 86.079-28 (1978).

[13] See Chrysler's 10/16/79 submission.

[14] 478 F. 2d 615 (D.C. Cir. 1974).

[15] The version of the Act in effect at that time did not explicitly require the Administrator to assess the effect of the suspension on public health or to take into consideration costs, driveability, and fuel economy in evaluating available technology.

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Among other things, the court stated that in deciding on a suspension request the Administrator should balance the risk associated with erroneously denying the suspension requests against the risks of erroneously denying a suspension request based on an erroneous conclusion that effective control technology is available. The court indicated that the risk balance should take into account the economic costs (such as the impacts on jobs and the economy) possibly associated with an erroenous denial [16] versus the possible environmental benefits lost through an erroneous grant (as addressed in section III.B.2. below).

Under the current section 202(b)(5) of the Act, the gravity of the economic risks which both a waiver applicant and the public face from the possibility of an erroneous denial depends on the following two factors: (1) The severity of the adverse economic consequences which could occur as the result of an erroneous denial and (2) the likelihood that the denial, in fact, will turn out to be ill-founded.[17] My first consolidated CO waiver decision assessed the risks associated with Chrysler's waiver requests. The information in the record for that decision did not give me a basis for concluding that the risk of an erroneous waiver denial for any of the engine families now at issue here was substantial enough to merit my granting the waiver to avoid that risk.[18]

a. *Potential Adverse Economic Consequences of Erroneously Determining That Effective Control Technology Is Available for Chrysler's Engine Families.* New information which has become available to me since my earlier decision to deny waivers to the four Chrysler engine families indicates that both Chrysler and the public could incur severe adverse economic consequences under this consolidated decision if I were to erroneously deny a waiver for any of these engine families, thereby effectively precluding Chrysler from marketing these vehicles. Chrysler reported a $460.6 million loss for the third quarter of 1979, and projected a total loss of $1.073 billion for 1979.[19] Indeed, Chrysler's economic problems have been so severe that Congress has enacted special legislation to provide Chrysler with near-term financial assistance in the form of loan guarantees.[20]

Chrysler will be able to benefit from this financial assistance and the advantages it has received relative to other major domestic manufacturers in renegotiating its contract with the United Auto Workers labor union.[21] Nevertheless, while an erroneous denial of any Chrysler waiver request would not automatically force Chrysler out of business, it still could pose an especially significant risk to Chrysler's continued viability. Chrysler's inability to market any engine family for which I erroneously denied a waiver could have a significant impact on Chrysler's cash-flow situation.[22] Indeed, the presence of this risk could impede Chrysler's efforts toward obtaining the private financing it needs to continue in operation.

The severe economic repercussions which Chrysler could incur in turn present significant ramifications for the general public. If Chrysler were unable to market one or more of its engine families as planned for the 1981 model year, Chrysler could experience a significant threat to its continued viability. In that event, the Federal government could be liable (for up to $1.5 billion) for any loan guarantees it issues on behalf of Chrysler. Overall, a Chrysler shutdown could cost the Federal government alone at least $2.75 billion in loss of revenues, unemployment claims, welfare costs, and other expenses.[23] Unemployment among Chrysler's employees, dealers, and suppliers could increase by 75,0000 to 100,000, and would have a particularly serious impact on specific regions of the country.[24] Competition in the domestic automobile industry could suffer significantly,[25] as could diversity in the domestic market.[26] Assuming that other domestic manufacturers are unable to assume the market share vacated by Chrysler,[27] the United States' balance of payments could incur an annual $3 billion penalty through increased automobile imports, particularly in the small car market.[28] Finally, Chrysler might be unable to cover up to $1.1 billion is unfunded pension liability which would have to be assumed by the Pension Benefit Guaranty Corporation.[29]

Of course, it is impossible to project with precision the extent to which any or all of these adverse effects are likely to occur as the result of an erroneous waiver denial for one or more of the Chrysler engine families at issue here. Nevertheless, on the basis of the foregoing information regarding Chrysler's tenuous financial position, I have concluded that there is a significant risk that an erroneous denial for any of these Chrysler families would in turn produce some adverse economic consequences for Chrysler and the public and that those consequences would be severe. No other information available to me indicates that the effect of an erroneous waiver denial for any other manufacturer is likely to be as sever either for the manufacturer involved or for the public generally.

b. *Likelihood of Erroneously Determining that Effective Control Technology Is Available for Chrysler's Engine Families.* By themselves, the sever adverse economic consequences for Chrysler, and ultimately for the public, which could result from a waiver denial based on an erroneous determination do no necessarily mean that I must find that the requisite technology is not available. Before I reach that finding for a given Chrysler engine family, I need to assess the likelihood that a determination that effective control technology is available, considering costs, driveability, and fuel economy, might be incorrect. The more severe the potential adverse economic consequences would be from an erroneous denial, the lower the

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Moreover, that version required the Administrator to make a separate suspension decision for each applicant manufacturer, rather than to make decisions on a model-by-model basis as the current section 202(b)(5) requires. See Clean Air Amendments of 1970, Pub. L. 91-604, section 6, 81 Stat. 499 (1970) (current version at 42 U.S.C. 7521).

[16] These impacts could arise under a denial based on an erroneous conclusion that effective control technology is available, because a manufacturer in fact would not be able to produce vehicles meeting Federal emission requirements and therefore could lose a substantial portion (if not all) of its sales.

[17] Cf. *Ethyl Corp. v. Environmental Protection Agency*, 541 F. 2d 1, 18 (D.C. Cir. 1976) (stating that the Administrator's finding under section 211 of the Act that lead particulates "will endanger the public health and welfare" is composed of reciprocal elements of probability and severity).

[18] See my discussion of *International Harvester* and the accompanying risk assessment at 44 FR 53388 (September 13, 1979).

[19] S. REP. NO. 463, 96th Cong., 1st Sess. 6-7 (1979). Chrysler recently reported a $1.1 billion loss for 1979. *Washington Post*, February 8, 1980, at E-1, col. 1.

[20] Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. No. 96-185, 93 Stat. 1324 (1980).

[21] S. REP. NO. 463, 96th Cong., 1st. Sess. 7 (1979).

[22] See Transcript of 11/5/79 Hearings, at 184-185 (where Chrysler discussed the problems it could face because of an erroneous denial). See also *THE WASHINGTON POST*, February 8, 1980, at E-1, Col. 1; *THE WALL STREET JOURNAL*, September 4, 1979, TIME, July 16, 1979, at 55; *AUTOMOTIVE NEWS*, July 2, 1979, at 1, Col. 4.

[23] S. REP. No. 463, 96th Cong., 1st Sess. 8 (1979).

[24] *Id.* at 8-9.

[25] *Id.* at 9.

[26] Chrysler is one of only three manufacturers (besides General Motors and Ford) which markets a full line of automobiles. Chrysler vehicle sales constitute approximately 10% of the domestic automobile market. *Id.* at 6-7

[27] It is at best uncertain that other domestic manufacturers can fill the market share vacated by Chrysler, especially in the area of smaller cars. See *id.* at 9; 44 FR 53382, n.65 (September 13, 1979) (citing testimony from Ford Motor Company).

[28] S. REP. NO. 463, 96th Cong., 1st Sess. 9 (1979).

[29] H.R. REP. NO. 690, 96th Cong., 1st Sess. 10 (1979).

likelihood needs to be that the denial might be erroneous in order for me to determine that such effective control technology is not available.[30] Because of the relative severity of the economic consequences which may occur as the result of an erroneous denial of a Chrysler waiver request, the less likely it has to be that a determination that such effective control technology is available for a given Chrysler engine family might be incorrect.

Each of the four Chrysler engine families for which waiver requests are pending have passed durability vehicle certification testing under the emission standards currently scheduled for the 1981 model year. The certification tests results for each engine family are included in Appendix A to this consolidated decision.

These test results clearly indicate that effective control technology is available to enable these engine families to certify to the 3.4 gpm CO standard.[31] Moreover, Chrysler has not raised any new facts or evidence establishing that these engine families will not be able to comply with other emission-related requirements should the 3.4 gpm CO standard still take effect in the 1981 model year.[32]

Section 202(b)(5)(C)(iii) of the Act requires that I consider costs, driveability, and fuel economy before reaching my ultimate determination on availability of effective control technology to meet a 3.4 gpm CO standard. Chrysler has submitted the following "composite" driveability data derived from development vehicles of the engine families in question commensurate with the calibrations Chrysler expects those engine families most likely will use in production to meet the 3.4 standard while optimizing fuel economy and driveability:

Table 1.—*Driveability Rating Projections for Chrysler's Engine Families* [33]

Engine family	Projected driveability [34] (cold/hot)	Typical deterioration factors			Chrysler's qualitative evaluation
		HC	CO	NO_x	
5.2L-EFM	7/7	1.1	1.5	1.5	Acceptable.
5.2L-2V	5/5	1.3	1.6	1.0	Not acceptable.
2.6L	4.5/5	1.7	1.4	1.3	Not acceptable.
2.2L California	4.5/6	1.7	1.4	1.3	Not acceptable.
50 State	5/6	1.7	0.9	1.1	Not acceptable.

[33] This table is excerpted from Chrysler's 2/11/80 submission.

[34] Chrysler assigns driveability ratings to vehicles on a scale of one (unreliable) to ten (excellent). See Chrysler's 7/3/79 application, Vol. 1, Sec. V, page D-33. Chrysler considers a 7 rating to be desirable, a 6 to be commercial, and a 5 to be marginal. Transcript from 7/10/79 Hearings at 74-75.

These data indicate that Chrysler has not yet achieved driveability levels for production vehicles of its 2.2L, 2.6L, and 5.2L/2V engine families which it believes would be marketable in conjunction with a 3.4 gpm CO standard.

These data alone, however, do not conclusively establish the unavailability of technology, considering costs, driveability, and fuel economy, for these three Chrysler engine families. Chrysler still has several months before the beginning of the 1981 model year to develop calibrations for these families to improve driveability under a 3.4 gpm CO standard. Moreover, Chrysler could elect to begin 1981 model year production of these engine families and through the "running change" process [35] work on calibrations that possibly might improve driveability. In the past, Chrysler has gone into production on an engine family with calibrations producing driveability test results below the level which Chrysler considers commercial.[36]

Nevertheless, a risk does exist that Chrysler will not be able to improve the driveability of its 2.2L, 2.6L, and 5.2L/2V engine families to marketable levels under a 3.4 gpm CO standard by the 1981 model year. This risk of not achieving what Chrysler considers to be marketable driveability is particularly significant where Chrysler engine families are involved because the emission control designs which Chrysler employs are relatively unsophisticated compared to the "state of the art" control designs of many other manufacturers. This restricts the flexibility Chrysler has to deal with the driveability problems and yet still meet the 3.4 gpm CO standard.[37] Specifically, Chrysler's designs have advanced less than other manufacturers' in the development of areas such as ignition systems, carburetors, exhaust gas recirculation (EGR) systems, and catalysts. Chrysler's systems have particular problems employing combustion mixtures dilute enough to enable its vehicles to meet emission standards while achieving acceptable driveability.[38] This emission/driveability

[30] See n. 17, *supra*.

[31] Now that Chrysler has completed durability testing on certification vehicles for each of these engine families which have deomonstrated compliance with the 3.4 gpm CO standard, the only major testing requirement Chrysler needs to perform to obtain certificates of conformity for these families is to test "emission-data" vehicles of these families at low mileage. See 40 CFR 86.079-26 (1978). These emission data vehicles will employ the calibration a manufacturer plans to use on production vehicles of these engine families. After its vehicles pass durability certification testing, a manufacturer is virtually assured that calibrations exist to enable its emission data vehicles to complete the remaining position of certification testing. Chrysler's plans for completing certification are contained in Chrysler's plans for completing certification are contained in Chrysler's July 3, 1979, Application, Vol. I, Sec. 5, pp.E-3 and E-4.

[32] See the discussion on this point in my first consolidated waiver decision. 44 FR 53384 (September 13, 1979).

[35] A manufacturer may implement design changes on a certified engine family after it has begun producing that engine family through what is known as the "running change" process, which is set forth in 40 CFR 86.079-32 through -34 (1978).

[36] Chrysler marketed an engine family in California with a 5.5 driveability rating and worked on improving driveability through running changes. Transcript from 7/12/79 Hearings, p. 75. Cf. note 28, *supra*.

[37] Vehicles with poor driveability are more likely to be maladjusted, often resulting in higher in-use emission levels. Motor Vehicle Tampering Survey (1978), Mobile Source Enforcement Division, EPA, pp. 22 and 24, November, 1978. Indeed, were I to require attainment of the 3.4 gpm CO standard by vehicles which could attain that standard only by incurring a significant risk of poor driveability in use, maladjustments to these vehicles may very well result in higher in-use CO emissions than would have occurred had I granted a waiver of the 3.4 gpm CO standard for these vehicles.

[38] For example, General Motors and Ford utilize high energy ignition combustion systems which can tolerate higher combustion mixture dilution without incurring significant driveabiity problems. Use of the high-energy ignition system permits increased recirculation of exhaust gas into the engine's combustion chambers during warmed-up conditions, and thus permits greater control of NO_x emissions.

Data from Chrysler also show improved emission performance from the use of high energy ignition systems during the "hot-start" phase of the Federal Test Procedure (FTP) for measuring vehicle emissions. (See Chrysler's 7/3/79 Application, Appendix III, data on research development vehicle 536. The hot-start tests are conducted on a warmed-

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tradeoff problem assumes greater significance during the "cold-start" phase of the Federal Test Procedure (FTP).[39] Other manufacturers have been able to develop methods to reduce or eliminate these tradeoff problems.[40] Chrysler has accomplished some development on improvements for this problem, but it is not ready to implement them across-the-board in production at this time.[41] Under a less stringent CO standard, Chrysler could calibrate its carburetors for a richer air/fuel ratio to produce a less dilute combustion mixture and thereby achieve better driveability.

In addition, Chrysler typically cannot achieve as much control of its carburetors' air/fuel ratios as can other manufacturers.[42] Thus, Chrysler vehicles will sacrifice some HC and CO control at times and some NOx control at other times depending upon how its carburetors deviate from optimum operation.

To achieve required degrees of emissions reduction, Chrysler has chosen to employ very large catalysts relative to the sizes employed by other manufacturers rather than employ smaller catalysts with a higher rhodium content and/or increased substrate cell density.[43] Chrysler may not have the design, manufacturing, and vendor capabilities to optimize its catalyst packages quickly.

Chrysler could improve the driveability of vehicles using these systems at the expense of some CO emission control. For the three Chrysler engine families which might be unable to attain marketable driveability levels under a 3.4 gpm CO standards, waiving the 3.4 gpm CO standard would permit Chrysler greater design flexibility to develop calibrations producing better driveability, thereby reducing the risk that Chrysler would be unable to market competitvely those three families.

As a result of the driveability problems Chrysler has experienced in developing its 2.2L, 2.6L, and 5.2L/2V engines to meet the 3.4 gpm CO standard, and as a result of the limited technological flexibility Chrysler has to remedy its driveability problems while maintaining required emission levels, the potential exists that Chrysler will not be able to produce these families with both acceptable emissions and marketable driveability. This possibility alone does not provide a basis for my determining that Chrysler has established that effective control technology is not available, considering costs, driveability and fuel economy. Available information also indicates, however, that severe economic costs could arise as a result of an erroneous determination for any Chrysler engine family on the available technology criterion.[44] I have determined, therefore, that given the risks presented from the possibility of erroneous waiver denials for any of these three engine families, when weighed against the environmental benefits which waiver denials for any of those families would achieve,[45] Chrysler has met its burden of proof in establishing that effective control technology, considering costs, driveability, and fuel economy, is not available for these families in the 1981 model year.

2. *The Act's Remaining Waiver Criteria.* Chrysler's waiver requests for these three engine families also meet the other statutory criteria for receiving waivers for the 1981 model year. Review of studies and investigations of the National Academy of Sciences (NAS) and other information available to me does not give me a basis for altering my assessment of the risks requiring me to determine that Chrysler has sufficiently established the technological infeasibility of the 3.4 gpm CO standard in the 1981 model year for these three engine families.[46]

Protection of the public health does not require attainment of the 3.4 gpm CO standard in the 1981 model year by these three engine families.[47] Granting waivers for these three families for the 1981 model year raises the number of vehicles covered by CO waivers to approximately 20% of total projected light-duty vehicle U.S. sales. The sum of the incremental contributions to ambient CO levels from that portion of the vehicle population is still so small as to be insignificant in its effect on public health.

My assessment of the risks associated with erroneous waiver denials indicate the public interest considerations at stake in my waiver decisions on these three engine families. I have determined that the adverse economic consequences that could occur due to the real possibility that a denial of a waiver request for any of these three engine families might be incorrect make it essential to the public interest that I grant these waivers.

All information contained in the record which relates to the good faith criterion tends to support a finding confirming Chrysler's good faith efforts.[48] I have determined, therefore, that Chrysler also has satisfied the statutory good faith criterion with respect to these three engine families.

Because Chrysler's waiver requests for its 1081 model year 2.2L, 2.6L, and 5.2L/2V engine families meet each of the Act's requirements, I am granting one-year waivers of the 3.4 gpm CO standard for these three engine families.

C. *Waiver Requests Denied* 1. *Chrysler's 2.2L, 2.6L, and 5.2L/2V Engine Families in the 1982 Model Year.* Severe adverse economic consequences still could occur were I to deny waivers erroneously for these three engine families for the 1982 model year.[49] I have concluded, however, that the likelihood is minimal that a determination that the 3.4 gpm CO standard is technologically feasible for these three families for the 1982 model year, even considering driveability, would be incorrect.

For the 1982 model year, Chrysler will have an additional year of lead time to remedy any driveability problems which still might exist for these engine families, which already have

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up engine. See 40 CFR Part 86, Subpart B (1978).) These systems most likely could achieve even greater emissions reduction over the full FTP test. Chrysler has not developed this type of system yet, and is not likely to be able to develop it within available lead time.

[39] A portion of the FTP for measuring emissions calls for testing a vehicle which is started after standing under controlled conditions with the engine turned off for 12–36 hours. See 40 CFR Part 86, Subpart B (1978).

[40] Specifically, high energy ignition systems permit General Motors and Ford to employ more dilute cold-start combustion mixtures and thereby achieve reduced CO emissions levels without incurring significant driveability problems. General Motors also has developed early fuel evaporation (EFE) systems to reduce cold-start CO emissions without sacrificing driveability. Other manufacturers have developed throttle-body injection or multiple-point fuel injection to help improve fuel metering.

[41] See Chrysler's 7/3/79 Application, Vol. I, Sec. V, at C–1 to C–5.

[42] *See, e.g.*, Chrysler's 7/3/79 Application, Vol. I, Sec. V, at C–5 and C–6; Transcript of 7/10/79 Hearing at 76.

[43] Various submissions to the record from other manufacturers support this conclusion.

[44] The decision addresses this point in section III.B.1.a., *supra*.

[45] See Section III.b.1., *supra*, and n. 61, *infra* (discussing the effects on public health of granting one-year waivers for these engine families).

[46] The conclusions I reached regarding section 202(b)(5)(C)(iv) of the Act in cases where I granted waivers in the first consolidated CO waiver decision still apply in this decision for Chrysler's renewed waiver requests for 1981 model year vehicles of these three engine families. 44 FR 53381 (September 13, 1979).

[47] See discussions on public health for engine families receiving waivers in the three earlier consolidated CO waiver decisions. 45 FR 7126 (January 31, 1980), 44 FR 69423–69424 (December 3, 1979), and 44 FR 53381–53382 (September 13, 1979).

[48] The reasoning behind my determination on the good faith criterion for engine families receiving waivers is set forth in my earlier three CO waiver consolidated decisions. 45 FR 7127 (January 31, 1980), 44 FR 69424–69425 (December 3, 1979); 44 FR 53383 (September 13, 1979).

[49] See the earlier discussion in this decision on the adverse economic consequences Chrysler and the public might face as the result of an erroneous denial. Section III.B.1.a., *supra*.

demonstrated their capability to certify to the 3.4 gpm CO standard. The recent technological exchange agreement between GM and Chrysler, which was intended in part to help Chrysler meet the emission standards scheduled for the 1981 model year, could provide Chrysler with the capability of overcoming any driveability problems these engine families might still be incurring, as could further development on the technology Chrysler already employs for these families.

No information in the record from Chrysler or any other source establishes that any driveability problems which might exist for these engine families in the 1981 model year under the 3.4 gpm CO standard necessarily will still prevent Chrysler from competitively marketing these families in the 1982 model year. In addition, no new information has become available to me which gives me a basis for altering my determinations that the costs associated with meeting the more stringent 3.4 gpm CO standard do not present a significnt risk that Chrysler will be unable to market these engine families in the 1982 model year.[50]

Chrysler has submitted information on its 2.2L engine family indicating that the 2.2L family was experiencing problems attaining fuel economy levels which Chrysler deems to be necessary to permit it to meet Federal fuel economy requirement.[51] Chrysler also stated that it "anticipated" a fuel economy penalty of 0.5–1.0 miles per gallon compared to its target values [52] for vehicles of these three engine families achieving the driveability levels listed in Table 1 under a 3.4 gpm CO standard.[53] As was the case with Chrysler's driveability problems, however, the record includes no information which establishes that these fuel economy concerns will prevent Chrysler from marketing this family in the 1982 model year.[54] Should Chrysler, after employing all good faith efforts to rectify the driveability risks it now faces under the 3.4 gpm CO standard and after attempting to improve its relatively precarious financial condition, still be unable to reduce these problems sufficiently within the lead time available for the 1982 model year, it will have time to reapply for waivers for these engine families.

As a result, I have determined that Chrysler has not met its burden or proof to establish that effective control technology, considering costs, driveability, and fuel economy, will not be available for these three families in model year 1982. On the basis of this determination, I am denying Chrysler the waivers it has requested for the 2.2L, 2.6L, 5.2L/2V engine families for the 1982 model year.

2. *Chrysler's 5.2L/EFM Engine Family.* Emission test results from Chrysler's durability certification vehicle for this engine family establish that this engine family is capable of certifying to the 3.4 gpm CO standard. Again, Chrysler has not provided any factual basis for a finding that this engine family will be unable to meet any other emission-related requirements.[55]

Moreover, the driveability data pertaining to Chrysler's 5.2L/EFM engine family demonstrates that this family can meet the 3.4 gpm CO standard while retaining the capability to meet Chrysler's own driveability level targets. For this engine family, the risk is minimal that Chrysler will not be able to produce vehicles for the 1981 model year which will not be capable of achieving marketable driveability levels. Nor has Chrysler established that it is at all likely to incur cost or fuel economy penalties in meeting the tighter 3.4 gpm CO standard.[56]

It may still be the case that an erroneous waiver denial for this engine family could result in severe adverse economic consequences. Because the evidence in the record shows that the likelihood of an erroneous denial for this engine family is minimal, however, I have concluded that Chrysler has not met its burden of proof to establish sufficiently that effective control technology, considering costs, driveability, and fuel economy, will not be available for the 5.2L/EFM engine family by the 1981 model year. As a result, I am denying Chrysler's waiver request for this engine family for both the 1981 and 1982 model years.

3. *Responses to Chrysler's Challenges to My First Consolidated Waiver Decision.* Chrysler's latest set of waiver submissions includes several challenges to my conclusions in my first consolidated CO waiver decision regarding availability of effective control technology for the 2.2L, 2.6L, 5.2L/2V and 5.2L/EFM engine families. Because I have based my determinations in this consolidated decision on new information which has become available since my first set of decisions, many of Chrysler's challenges no longer bear on the present bases for these determinations.

Specifically, many of Chrysler's contentions address the bases I used in my first consolidated decision to project whether or not effective control technology was available to enable these engine families to certify under the 3.4 gpm CO standard.[57] The determinations I have reached here no longer rely upon projections of capabilities to certify; rather, I am relying on actual certification test results which conclusively establish the certification capabilities of these engine families.

Chrysler also has asserted that were my waiver decision to prevent it from producing its 2.2L and 2.6L engines, its corporate average fuel economy (CAFE) levels would fall below the level required by Federal standards.[58] I have reached my decisions to deny waivers for these engine families for the 1982 model year only after determining that available information does not establish a significant risk that effective control technology, considering costs, driveability, and fuel economy, would not be available for either of these engine families for the 1982 model year. As a result, Chrysler has not met its burden of proof to establish a significant risk that a waiver denial would prevent it from producing either of these engine families and thus from meeting CAFE requirements.

Chrysler has asserted that I have not adequately considered the public health implications of my decisions to deny waivers for any of its engine families.[59] Specifically, Chrysler has contended that the 3.4 gpm CO standard in effect for any engine family not receiving a waiver is not in any way required for the protection of public health.

[50] In my first consolidated CO waiver decision, I addressed the cost considerations associated with the Chrysler waiver requests which I have denied. 44 FR 53385, 53400 (September 13, 1979).

[51] Chrysler's 11/19/79 submission, p. 1.

[52] Chrysler's target values are the fuel economy levels it feels its vehicles must achieve in order to avoid "serious" problems on meeting market demand. Chrysler's 1/30/80 submission.

[53] Chrysler's 1/30/80 submission.

[54] In my first consolidated CO waiver decision, I addressed the fuel economy considerations associated with the Chrysler waiver requests which I have denied. 44 FR 53386, 53402 (September 13, 1979). Chrysler provided no information explaining the basis for its projected fuel economy penalty, the probability that such a penalty would occur, or the reasons why the penalty would prevent Chrysler from attaining Federal fuel economy requirements or meeting market demand.

[55] See note 24, *supra.*

[56] See notes 50 and 54, *supra*, and accompanying text. Chrysler stated it also anticipated a 0.5–1.0 miles per gallon fuel economy penalty relative to its target levels for its 5.2L/EFM family at the driveability levels listed in Table 1 of Chrysler's 1/30/80 submission. Chrysler again provided no information explaining the basis for its projected fuel economy penalty, the probability that such a penalty would occur, or the reasons why the penalty would prevent Chrysler from attaining Federal fuel economy requirements.

[57] See Chrysler's 10/16/79 submission.

[58] *Id.* at p. A–11.

[59] Chrysler's 10/16/79 submission, p. C–1.

As my earlier CO waiver decisions explain, Congress did not intend that I reexamine the need for implementing the 3.4 gpm CO standard which Congress believed to be necessary to prevent ambient CO levels from presenting unacceptable public health risks.[60] Rather, the public health criterion contained in the Act only directs me to determine whether protection of the public health requires attainment of the 3.4 gpm CO standard by those families which I otherwise have determined should receive waivers. I have applied this approach in deciding which Chrysler engine families should receive waivers for which model years.

My earlier consolidated decisions have considered the risks which granting waivers to any or all engine families presents to public health.[61] Even were the Act to require me to consider the need for a 3.4 gpm CO standard to protect public health, I have determined that a two-year, industry-wide waiver does indeed present measurable risks to the public health.[62] The presence of these risks confirms the reasonableness of Congress' decision to require manufacturers generally to achieve the 3.4 gpm CO standard in order to protect public health.

Chrysler also has stated that my decision to deny waivers for any of its engine families do not adequately consider their implications regarding the public interest.[63] My assessment of the risks presented in reaching my decisions on Chrysler's waiver requests examines closely the public interest considerations at stake.[64]

As a result of this examination, I have determined that it is essential to the public interest to grant waivers for those engine families and those model years for which Chrysler has established a significant risk that effective control technology, considering costs, driveability, and fuel economy, might not be available. I have further determined that even if the Act otherwise authorized me to grant waivers for the engine families and model years for which Chrysler has failed to establish this risk, those waivers would not be essential to the public interest because Chrysler has failed to establish that it may not be able to market those families for the public in those model years.[65]

In summary, none of the contentions Chrysler has submitted for consideration in its renewed waiver requests gives me a basis for altering my decisions above to deny Chrysler's waiver requests for 1982 model year vehicles of its 2.2L, 2.6L, and 5.2L/2V engine families and for 1981 and 1982 model year vehicles of its 5.2L/EFM engine family.

IV. Interim CO Exhaust Emission Standards

As required by section 202(b)(5)(A) of the Act, I am simultaneously promulgating regulations prescribing an interim CO emission standard for 1981 families. For these three engine families, this action continues in effect for one additional model year the CO emission standard applicable to all 1980 model year light-duty vehicles.

Dated: March 11, 1980.

Douglas M. Costle,

Administrator.

Appendix A

Table I.—*1981 Federal Certification Vehicles*

Family 2.2L (BCR 2.2V2HU6). Vehicle DO 20

Miles	HC	CO	NO_x
4776	0.153	2.80	0.66
9773	0.127	2.01	0.61
14799	0.137	2.01	0.58
19778	0.155	2.64	0.55
24781	0.217	2.89	0.67
29844	0.221	3.61	0.71
29876	0.178	2.78	0.66
34773	0.164	3.02	0.65
39785	0.188	2.87	0.74
44918	0.187	2.76	0.74
49761	0.206	3.30	0.60
4000 (CALC) =	0.14	2.34	0.61
50000 (CALC) =	0.21	3.22	0.69
Deterioration factor = .	1.4636	1.3775	1.1390

Table II.—*1981 Federal Certification Vehicles*

Family 2.6L (BCR 2.6VBJ2). Vehicle DO32R

Miles	HC	CO	NO_x
4765	0.119	1.14	0.60
9804	0.150	1.81	0.62
15152	0.164	2.03	0.75
15172	0.138	0.94	0.66
20160	0.221	0.81	0.67
24776	0.201	2.25	0.71
30029	0.246	1.77	0.95
30046	0.197	1.51	0.74

Table II.—*1981 Federal Certification Vehicles*—Continued

Family 2.6L (BCR 2.6VBJ2). Vehicle DO32R

Miles	HC	CO	NO_x
34763	0.256	1.97	0.79
39796	0.263	2.25	0.84
44777	0.244	1.81	0.87
44815	0.221	1.85	0.79
49777	0.223	1.79	0.81
4000 (CALC) =	0.14	1.34	0.62
50000 (CALC) =	0.26	2.00	0.87
Deterioration factor = .	1.8815	1.4948	1.3961

Table III.—*1981 Federal Certification Vehicles*

Family 2.6L (BCR 2.6V2BG8). Vehicle DO34

Miles	HC	CO	NO_x
4776	0.098	0.52	0.59
9818	0.128	1.79	0.57
14791	0.171	2.98	0.58
14809	0.186	2.38	0.44
19872	0.190	1.73	0.59
25191	0.211	2.52	0.66
29857	0.231	3.12	0.66
29881	0.268	2.81	0.65
34829	0.197	2.28	0.70
39842	0.219	2.82	0.73
44787	0.281	3.07	0.75
44805	0.213	1.78	0.66
49792	0.274	2.38	0.76
4000 (CALC) =	0.13	1.76	0.52
50000 (CALC) =	0.27	2.84	0.75
Deterioration factor = .	2.1004	1.6104	1.4372

Table IV.—*1981 Federal Certification Vehicles*

Family 2.6L (BCR 2.6V2BH9). Vehicle DO 35

Miles	HC	CO	NO_x
4858	0.182	1.13	0.54
9769	0.159	1.01	0.60
14870	0.283	2.82	0.62
14888	0.190	1.66	0.56
19769	0.279	2.48	0.62
24762	0.190	1.40	0.71
30128	0.206	1.72	0.76
30147	0.230	1.03	0.67
34786	0.255	3.06	0.65
39785	0.213	1.49	0.96
44782	0.225	2.34	0.89
44807	0.245	3.11	0.95
49847	0.212	1.07	0.82
4000 (CALC) =	0.205	1.60	0.51
50000 (CALC) =	0.235	2.15	0.91
Deterioration factor = .	1.461	1.3371	1.7771

Table V.—*1981 Federal Certification Vehicles*

Family 2.2L (BCR 2.2V2HJS) Vehicle DO 95

Miles	HC	CO	NO_x
4751	0.118	1.50	0.55
10157	0.154	2.68	0.46
15059	0.219	2.38	0.48
19839	0.182	2.21	0.51
21242	0.180	3.97	0.51
24814	0.215	3.70	0.47
29873	0.166	2.83	0.55
29897	0.158	2.18	0.54
34784	0.182	1.84	0.62
40049	0.230	3.87	0.61
40069	0.228	3.00	0.57
44945	0.245	2.75	0.51
47099	0.226	3.00	0.64
4000 (CALC) =	0.144	2.29	0.48
50000 (CALC) =	0.238	3.20	0.60
Deterioration factor =	01.6572	1.3976	1.2622

[60] 45 FR 7127 (January 31, 1980). 44 FR 69429 (December 3, 1979). 44 FR 53387 (September 13, 1979).

[61] See 45 FR 7126 (January 31, 1980). 44 FR 69423, 69429, 69456–69462 (December 3, 1979). 44 FR 53381, 53386, 53402–53407 (September 13, 1979).

[62] 45 FR 7126 (January 31, 1980). 44 FR 69429 (December 3, 1979). 44 FR 53386–53387 (September 13, 1979).

[63] Chrysler's 10/16/79 submission, p. D–1.

[64] See the discussion in sections III. B. 1. and III. C. 1. and 2.

[65] I have based this determination on the same reasoning that I used in my earlier consolidated CO waiver decisions to determine that waivers were not essential to the public interest for engine families for which an applicant had failed to establish that effective control technology, considering costs, driveability, and fuel economy, was not available. See 45 FR 7126 (January 31, 1980); 44 FR 69430 (December 3, 1979); 44 FR 53387 (September 13, 1979).

Table VI.—*1981 Federal Certification Vehicles*

Family 5.2L/2V (BCR 5.2V2HC6) Vehicle DO 60

Miles	HC	CO	NO_x
4769	0.171	2.03	0.62
9824	0.149	1.76	0.58
14810	0.170	2.12	0.67
14829	0.172	2.07	0.58
19819	0.188	2.75	0.61
24815	0.201	2.75	0.60
29765	0.216	3.15	0.63
29815	0.244	4.27	0.59
34795	0.236	3.71	0.63
39762	0.192	2.61	0.68
44776	0.192	2.01	0.66
44794	0.234	3.37	0.61
49791	0.211	3.19	0.68
4000 (CALC) =	0.166	2.11	0.59
50000 (CALC) =	0.228	3.35	0.66
Deterioration factor =	1.3724	1.5866	1.1010

Table VII.—*1981 Federal Certification Vehicles*

Family 5.2L/2VEFM (BCR 5.2 V9FBO) Vehicle DO 62

Miles	HC	CO	NO_x
4927	0.194	1.14	0.70
9792	0.152	1.14	0.67
14793	0.182	1.44	0.77
19799	0.173	1.34	0.75
25170	0.157	1.45	0.84
30171	0.166	1.42	0.86
30191	0.163	1.15	0.82
34810	0.182	1.82	0.93
39807	0.156	1.40	0.93
44808	0.197	2.21	0.92
49807	0.197	1.39	0.97
4000 (CALC) =	0.17	1.14	0.67
50000 (CALC) =	0.18	1.73	0.98
Deterioration factor =	1.0770	1.5164	1.4560

Table VIII.—*1981 Federal Certification Vehicles*

Family 2.2L (BCR 2.2V2 HE9) Vehicle DO 17

Miles	HC	CO	NO_x
4821	0.178	2.09	0.55
9810	0.081	1.48	0.53
14786	0.169	2.69	0.58
19809	0.131	1.78	0.57
24786	0.134	2.04	0.50
29809	0.106	1.33	0.60
29833	0.151	2.27	0.67
31052	0.176	2.68	0.65
35134	0.211	2.51	0.68
39832	0.257	2.87	0.81
45169	0.298	3.32	0.93
45187	0.286	3.09	0.92
4000 (CALC) =	0.091	1.63	0.44
50000 (CACL) =	0.268	3.04	0.88
Deterioration factor =	2.9258	1.8676	1.9853

Table IX.—*1981 Federal Certification Vehicles*

Family 2.2L (BCR 2.2V2HA5) Vehicle DO 16

Miles	HC	CO	NO_x
4790	0.122	1.80	1.13
9792	0.101	1.75	0.52
14804	0.133	2.20	0.55
19809	0.099	1.42	0.59
24764	0.104	1.58	0.53
29778	0.112	1.72	0.61
29796	0.125	1.95	0.51
34788	0.109	1.30	0.50
39794	0.131	1.65	0.64
40095	0.140	1.98	0.60
42124	0.198	2.98	0.59
45018	0.226	1.98	0.94
45974	0.231	2.32	0.91
4000 (CALC) =	0.082	1.62	0.66
50000 (CALC) =	0.188	2.12	0.66
Deterioration factor =	2.2857	1.3028	0.9968

Table X.—*1981 Federal Certification Vehicles*

Family 5.2L/2V (BCR 5.2V 2HJ4) Vehicle DO 58

Miles	HC	CO	NO_x
4786	0.225	1.92	0.60
9772	0.303	2.43	0.36
15106	0.258	2.05	0.39
15126	0.219	2.06	0.45
19801	0.322	1.88	0.34
25132	0.484	2.42	0.42
29768	0.235	2.15	0.37
29787	0.303	1.99	0.36
34807	0.262	3.15	0.40
39786	0.375	3.12	0.41
44772	0.294	2.57	0.34
44790	0.298	3.01	0.44
49808	0.378	3.03	0.41
4000 (CALC) =	0.26	1.85	0.45
50000 (CALC) =	0.345	2.99	0.37
Deterioration factor =	1.3279	1.6165	0.8310

Table XI.—*1981 Federal Certification Vehicles*

Family 5.2L2V (BCR 5.2VHL6) Vehicle DO 57

Miles	HC	CO	NO_x
4884	0.166	0.93	0.52
9760	0.165	1.43	0.52
14790	0.208	1.89	0.57
14810	0.174	3.91	0.61
19774	0.217	3.24	0.56
25158	0.231	2.31	0.48
30133	0.216	2.12	0.62
30155	0.243	1.39	0.52
34769	0.211	2.19	0.60
39793	0.251	2.28	0.56
44773	0.245	2.32	0.60
44792	0.247	2.74	0.62
49823	0.201	2.06	0.63
4000 (CALC =	0.177	2.00	0.53
50000 (CALC) =	0.247	2.47	0.61
Deterioration factor =	1.3915	1.2104	1.598

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Part IX

Federal Reserve System

Marginal Reserve Requirements; Interest on Deposits; and Credit Restraint

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0278]

Reserves of Member Banks; Marginal Reserve Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On October 6, 1979, the Board of Governors amended Regulation D to establish a marginal reserve requirement of 8 percent on the amount by which the total of certain managed liabilities of member banks (and Edge and Agreement Corporations) and United States branches and agencies of foreign banks exceeds the amount of an institution's base of managed liabilities. An institution's base was defined as the daily average total of managed liabilities outstanding during the period September 13–26, 1979, or $100 million, whichever is greater. The Board has amended Regulation D to increase the marginal reserve requirement ratio to 10 per cent. The Board also has amended Regulation D to reduce an institution's managed liabilities base by the greater of 7 per cent or the amount of decrease in an institution's daily average gross loans to non-United States residents and gross balances due from foreign offices of other institutions between the base period (September 13–26, 1979) and the statement week ending March 12, 1980. In the future, an institution's base will be reduced further after March 12, 1980, by the amount by which it decreases its daily average gross loans to non-U.S. residents and gross balances due from foreign offices of other institutions during a statement week. However, in no event will the base of an institution that was a net borrower of managed liabilities during the base period (September 13–26, 1979) be reduced below $100 million. The purpose of this action is to control further the availability of bank credit.

EFFECTIVE DATE: This action is effective for marginal reserves required to be maintained during the seven-day period beginning April 3, 1980, against total managed liabilities outstanding during the seven-day period beginning on March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Anthony F. Cole, Senior Attorney (202/452–3612), or Paul S. Pilecki, Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On October 6, 1979, the Board of Governors amended Regulation D (12 CFR Part 204) to impose a marginal reserve requirement of 8 per cent on the amount by which the total managed liabilities of member banks (and Edge and Agreement Corporations) and United States branches and agencies of foreign banks with total worldwide consolidated bank assets in excess of $1 billion exceeds the amount of the institution's managed liabilities outstanding during the base period (September 13–26, 1979) or $100 million, whichever is greater (44 FR 60071). Managed liabilities include the total of (1) time deposits in denominations of $100,000 or more with original maturities of less than one year; (2) Federal funds borrowings with original maturities of less than one year from U.S. offices of depository institutions not required to maintain Federal reserves and from U.S. government agencies; (3) repurchase agreements with original maturities of less than one year on U.S. government and agency securities entered into with parties other than institutions required to maintain Federal reserves; and (4) Eurodollar borrowings from foreign banking offices, asset sales to related foreign offices and member bank foreign office loans to U.S. residents. The purpose of this action was to better control the expansion of bank credit, help curb speculative excesses in financial, foreign exchange and commodity markets and thereby serve to dampen inflationary forces.

Under the marginal reserve program, the amount of marginal reserves that a member bank, Edge or Agreement Corporation, or a U.S. branch or agency family of a foreign bank that is a net borrower of managed liabilities is required to maintain is determined by the amount by which the total of the institution's managed liabilities during a given seven-day reserve computation period exceeds the daily average amount of managed liabilities outstanding during the base period or $100 million, whichever is greater. For an institution that is a net lender of managed liabilities (that is, the sum of its managed liabilities is negative because its net Eurodollar loans to its foreign offices are greater than the total of its other managed liabilities), its managed liabilities base is the algebraic sum of its managed liabilities and $100 million.

The Board has determined to increase the marginal reserve requirement ratio to 10 percent and also has determined to adjust the base amount of managed liabilities for institutions subject to the marginal reserve requirement program. For reserve computation periods beginning March 20, 1980, if an institution was a net borrower of managed liabilities during the base period, its base amount will be reduced by an amount equal to the greater of 7 percent of its current base or an amount equal to the decrease in the sum of its daily average gross loans to non-United States residents and gross balances due from foreign offices of other institutions from the base period (September 13–26, 1979) to the seven-day statement week ending March 12, 1980. For example, if an institution has a borrowed managed liabilities base of $250 million, its base would be reduced by at least $17.5 million (7 percent x $250 million). However, if such institution's daily average of gross loans to non-United States residents and gross balances due from foreign offices of other institutions decreased between the base period (September 13–26, 1979) and the statement week ended March 12, 1980, by $25 million, then the new managed liabilities base for such institution would be $225 million, since the decrease in daily average of such loans and balances was greater than 7 percent. Consequently, the marginal reserve ratio of 10 percent would be applied to the institution's managed liabilities in excess of $225 million.

The managed liabilities base shall be further reduced in reserve computation periods beginning March 20, 1980, by the amount by which the institution's daily average of gross loans to non-United States residents and gross balances due from foreign offices of other institutions during the statement week is lower than the daily average amount of such loans and balances during the statement week ending on March 12, 1980. In order to minimize the reserve impact of small repayments or reductions in the daily average gross loans to non-United States residents and balances due from foreign offices of other institutions, a future reduction in such loans and balances below the daily average for the week ending March 12, 1980, will reduce the base only in increments of $2 million. For example, if an institution reduces such loans and balances by a daily average of $12.5 million during the statement week ending March 26, 1980, its base for that week and future weeks will be reduced by $12 million. This approach also will enable institutions to receive ordinary repayments of foreign loans without being required to relend such funds immediately to avoid increased marginal reserves. The base for an institution that was a net borrower of managed liabilities during

the base period (September 13–26, 1979), will not be reduced below $100 million. The base will not change for an institution that was a net lender of managed liabilities during the base period. An institution's base will not be affected by an increase in daily average gross loans to non-United States residents. In addition, eligible bankers' acceptances not held in the issuer's own portfolio will not be regarded as loans for purposes of determining reductions in the managed liabilities base.

These actions are being taken to moderate expansion of bank credit, thereby dampening inflationary pressures. In order to achieve the above stated objectives as soon as possible, the Board for good cause finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to these actions are impracticable and contrary to the public interest.

These actions are taken pursuant to the Board's authority under sections 19, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 461, 601 *et seq.*) and under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

Effective April 3, 1980, § 204.5 of Regulation D (12 CFR 204.5) is amended by revising the introductory clauses of (f)(1) and (2) and by adding a new (f)(3) as follows:

§ 204.5 Reserve requirements.

* * * * *

(f) *Marginal reserve requirements.*— (1) *Member banks.* A member bank shall maintain a daily average reserve balance against its time deposits equal to 10 per cent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day reserve maintenance period exceeds the member bank's managed liabilities base as determined in accordance with subparagraph (3) of this paragraph. A member bank's managed liabilities are the total of the following: * * *

(2) *United States branches and agencies of foreign banks.* A United States branch or agency of a foreign bank with total worldwide consolidated bank assets in excess of $1 billion shall maintain a daily average reserve balance against its liabilities equal to 10 per cent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day reserve maintenance period exceeds the institution's managed liabilities base as determined in accordance with subparagraph (3) of this paragraph. In determining managed liabilities of United States branches and agencies, the managed liabilities of all United States branches and agencies of the same foreign parent bank and of its majority-owned (greater than 50 per cent) foreign banking subsidiaries (the "family") shall be consolidated. Asset and liability amounts that represent intra-family transactions between United States branches and agencies of the same family shall not be included in computing the managed liabilities of the family. United States branches and agencies of the same family shall designate one U.S. office to be the reporting office for purposes of filing consolidated family reports required for determination of the family's marginal reserve requirements. The reporting office shall file reports and maintain marginal reserves required under this section for the family at the Federal Reserve Bank of the district in which the reporting office is located. The total managed liabilities of a family are the total of each branch's and agency's: * * *

(3) *Managed liabilities base.* During the seven-day reserve computation period beginning March 20, 1980, and during each seven-day reserve computation period thereafter, the managed liabilities base of a member bank or a family of United States branches and agencies of a foreign bank ("family") shall be determined as follows:

(i) For a member bank or family that, on a daily average basis, is a net borrower of total managed liabilities during the fourteen-day base period ending September 26, 1979, its managed liabilities base shall be the daily average of its total managed liabilities during the base period less the greater of

(A) 7 per cent of the daily average of its total managed liabilities during the base period; or

(B) the amount equal to the decrease in its daily average gross loans to non-United States residents [18] and gross balances due from foreign offices of other institutions [19] or institutions, the time deposits of which are exempt from the rate limitations of Regulation Q pursuant to § 217.3(g) thereof [20] between the fourteen-day base period ending September 26, 1979, and the computation period ending March 12, 1980.

For each computation period beginning after March 19, 1980, the managed liabilities base of a member bank or family shall be further reduced during the computation period by the amount by which its lowest daily average of gross loans to non-United States residents [18] and gross balances due from foreign offices of other institutions [19] or institutions, the time deposits of which are exempt from the rate limitations of Regulation Q pursuant to § 217.3(g) thereof [20] outstanding during any computation period beginning after March 19, 1980, is lower than the daily average amount of such loans and balances outstanding during the computation period ending on March 12, 1980. The amount representing such difference shall be rounded to the next lowest multiple of $2 million. In no event will the managed liabilities base for an institution that was a net borrower of managed liabilities during the fourteen-day base period ending September 26, 1979, be less than $100 million.

(ii) For a member bank or family that, on a daily average basis, is a net lender of total managed liabilities during the fourteen-day base period ending September 26, 1979, its managed liabilities base shall be the sum of its daily average negative total managed liabilities and $100 million.

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[18] A United States resident is: (a) Any individual residing (at the time the credit is extended) in any State of the United States or the District of Columbia; (b) any corporation, partnership, association or other entity organized therein ("domestic corporation"); and (c) any branch or office located therein of any other entity wherever organized. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more such domestic corporations will not be deemed to be credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

[19] Any banking office located outside the States of the United States and the District of Columbia of a bank organized under domestic or foreign law.

[20] A foreign central bank, or any international organization of which the United States is a member, such as the International Bank for Reconstruction and Development (World Bank), International Monetary Fund, Inter-American Development Bank, and other foreign international, or supranational entities exempt from interest rate limitations under § 217.3(g)(3) of Regulation Q (12 CFR 217.3(g)(3)).

By order of the Board of Governors of the Federal Reserve System, March 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-8661 Filed 3-18-80; 12:21 pm]

BILLING CODE 6210-01-M

12 CFR Part 217

[Reg. Q; Docket No. R-0279]

Interest Rate Ceilings to Certain Obligations Issued By a Member Bank's Parent Bank Holding Company

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended Regulation Q (12 CFR Part 217) to impose interest rate limitations on certain obligations issued by a member bank's parent bank holding company. The amendment will apply to an obligation with a denomination of less than $100,000 issued or guaranteed by a bank holding company, regardless of the use of the proceeds, with an original maturity of 4 years or less, or redeemable by the holder in 4 years or less. Obligations with original maturities of 2½ years to 4 years, or redeemable in periods of 2½ years to 4 years, will be subject to the ceiling rate of interest payable on the 2½ year variable ceiling time deposit. Obligations in denominations of $10,000 or more with original maturities between 26 weeks and 2½ years, or redeemable in periods of 26 weeks to 2½ years, will be subject to the ceiling rate of interest payable by member banks on 26-week money market time deposits of less than $100,000. Obligations in denominations of less than $10,000 with original maturities of less than 2½ years, or redeemable in periods of less than 2½ years will be subject to the same interest rate limitations applicable to comparable obligations of member banks. The amendment does not apply to commercial paper issued by a member bank's parent bank holding company. This action is being taken in order to facilitate the orderly administration of currently prescribed interest rate limitations.

EFFECTIVE DATE: March 14, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625); Anthony F. Cole, Senior Attorney (202/452-3612) or Paul S. Pilecki, Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board of Governors has amended Regulation Q (12 CFR 217.1 and 217.7) to apply Regulation Q interest rate ceilings to certain obligations issued or guaranteed, in whole or in part, as to principal or interest by a member bank's parent bank holding company. The amendment applies to any obligation, regardless of the use of the proceeds, issued in a denomination of less than $100,000 that has an original maturity of 4 years or less, or that is redeemable by the holder in periods of 4 years or less. Obligations with original maturities of 2½ years to 4 years, or redeemable between 2½ years and 4 years, will be subject to the ceiling rate of interest payable on the 2½ year variable ceiling time deposit. Obligations in denominations of $10,000 or more with original maturities of 26 weeks to 2½ years, or redeemable in periods of 26 weeks to 2½ years, will be subject to the ceiling rate of interest payable by member banks on 26-week money market time deposits of less than $100,000. In addition, obligations in denominations of less than $10,000 with original maturities of less than 2½ years, or redeemable in periods of less than 2½ years, will be subject to the interest rate limitations applicable to comparable obligations of member banks.

With respect to obligations redeemable at specified intervals at the holder's option, the rate of interest payable on such obligations must be adjusted at the beginning of each such interval. The maximum rate of interest that may be paid for the period during the specified redemption intervals will be determined by applying the Regulation Q rules in effect at the time the obligation was issued. For example, on March 17, 1980, a parent bank holding company subject to this action issues an obligation with redemption intervals between 2½ to 4 years. The maximum rate of interest that may be paid during each redemption interval will be determined by the rule in effect as of March 17 for determining the ceiling rate of interest payable on the 2½ year variable ceiling time deposit. This rule provides that a member bank may pay interest at a rate of 11¾ per cent or 75 basis points below the yield on 2½ year Treasury securities, whichever is less. Consequently, the maximum rate that may be paid on the obligation during the first redemption interval is 11¾ per cent. The maximum rate that may be paid during subsequent redemption intervals will be 11¾ per cent or 75 basis points below the yield on 2½ year Treasury securities, whichever is less. This procedure for determining the maximum rate payable during each redemption interval will apply even if the rule relating to the determination of the ceiling rate of interest payable on the 2½ year variable ceiling time deposit is modified. If, however, the rule relating to the determination of the ceiling rate of interest payable on the 2½ year variable ceiling time deposit is modified, the new rule would apply to bank holding company obligations issued on or after the effective date of the new rule.

The amendment applies only to obligations required to be registered with the Securities and Exchange Commission under the Securities Act of 1933 and, consequently, the amendment does not apply to commercial paper issued by a member bank's parent bank holding company. The amendment applies to covered obligations regardless of the use of the proceeds—i.e., even if the proceeds are not being supplied to the parent bank holding company's member bank subsidiary or subsidiaries. However, if a bank holding company directly issues obligations subject to interest rate limitations imposed by the Federal Deposit Insurance Corporation or the Federal Home Loan Bank Board pursuant to P.L. 89-597, such obligations will not be subject to the interest rate limitations imposed by this action.

The Board has concluded that regulations pertaining to the rates that may be paid on obligations issued by bank holding companies in denominations of less than $100,000 with original maturities of 4 years or less are necessary at this time in view of the impact the issuance of such obligations is likely to have on deposit flows among depository institutions. Such obligations typically are issued at rates substantially in excess of the Regulation Q ceiling rates of interest payable by member banks on time deposits of comparable maturities and are competitive with consumer deposits issued by depository institutions. The Board believes that such obligations generally should be subject to the interest rate limitations imposed upon member banks.

The Board's action was taken after consultation with the Federal financial institution regulatory agencies. In order to facilitate the administration of currently prescribed deposit interest rate limitations, the Board finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to this action would be contrary to the public interest and that good cause

exists for making the amendment effective immediately.

Pursuant to its authority under sections 19(a) and (j) of the Federal Reserve Act (12 U.S.C. §§ 461 and 371b), the Board amends Regulation Q (12 CFR 217), effective March 14, 1980, as follows: 1. Section 217.1 of Regulation Q is amended by adding a new paragraph (h):

§ 217.1 Definitions.

* * * * *

(h) *Obligations issued by the parent bank holding company of a member bank.* For the purposes of this part, the "deposits" of a member bank also includes an obligation that is (1) issued in a denomination of less than $100,000; (2) required to be registered with the Securities and Exchange Commission under the Securities Act of 1933; (3) issued or guaranteed in whole or in part as to principal or interest by the member bank's parent which is a bank holding company under the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841–1850), regardless of the use of the proceeds; and (4) issued with an original maturity of 4 years or less, or which is redeemable at intervals of 4 years or less at the option of the holder. The term "deposits" does not include those obligations of a bank holding company that are subject to interest rate limitations imposed pursuant to Pub. L. 89–597.

2. Section 217.7 of Regulation Q is amended by adding a new paragraph (h):

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(h) *Obligations of the parent bank holding company of a member bank.* Notwithstanding the above, interest may be paid on a deposit as defined in § 217.1(h) at a rate not to exceed the following schedule:

Original Maturity or Redemption Period and Maximum Percent

2½ to 4 years—For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For a successive period thereafter, interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 2½ year variable ceiling time deposits established pursuant to the provisions of § 217.7(g) in effect at the time the obligation was issued.

26 weeks or more but less than 2½ years ($10,000 minimum denomination required)—For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For a successive period thereafter interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 26-week money market time deposits established pursuant to the provisions of § 217.7(f) in effect at the time the obligation was issued.

30 days or more but less than 2½ years (No minimum denomination required)—Interest may be paid at the ceilings established pursuant to the provisions of § 217.7(b) in effect at the time the obligation is issued.

Less than 30 days—No interest may be paid.

By order of the Board of Governors, effective March 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-8662 Filed 3-18-80; 12:21 pm]

BILLING CODE 6210-01-M

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12 CFR Part 229

[Docket No. R-0280]

Consumer Credit

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board has adopted provisions requiring creditors that extend certain types of consumer credit to maintain a special non-interest bearing deposit with the Federal Reserve equal to 15% of the amount by which certain types of the creditor's outstanding consumer credit exceeds the larger of $2 million or the amount of such credit outstanding on March 14, 1980 (or the last day or other period immediately prior to March 14, 1980 for which data are available). Members of the Federal Home Loan Banks and all other savings and loan associations shall maintain the special deposit with the Federal Home Loan Banks. Credit unions, whether or not members of the National Credit Union Administration's Central Liquidity Facility, shall maintain the special deposit with the Central Liquidity Facility. The types of consumer credit covered by this regulation include credit extended through the use of credit cards, unsecured consumer loans, and secured consumer credit where the proceeds are not being used to purchase the collateral. Credit extended for business and agricultural purposes and closed-end consumer credit secured by the collateral financed are not subject to the regulation. The purpose of this action is to help curb inflationary pressures in the economy.

EFFECTIVE DATE: March 14, 1980.

FOR FURTHER INFORMATION CONTACT: Robert E. Mannion, Deputy General Counsel; Gilbert T. Schwartz, Assistant General Counsel; or Margaret L. Egginton, Attorney; Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3000).

SUPPLEMENTARY INFORMATION: In accordance with the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, dated March 14, 1980, the Board has adopted this regulation to require certain creditors that extend certain types of consumer credit to hold a special deposit with the Federal Reserve Banks against increases in the amount of those types of credit outstanding. Creditors that have less than $2 million of consumer credit outstanding of the types covered by the regulation will not be required to maintain the special deposit. The amount of the special deposit that must be held will be equal to 15% of the amount by which certain types of consumer credit extended by the creditor exceeds the larger of $2 million or the amount of such credit outstanding as of the base date. For creditors that have daily credit data available, the base date is March 14, 1980 or the last day before March 14, 1980 for which such data are available. For creditors that do not have daily credit data available, the base date is the period immediately prior to March 14, 1980 for which credit data are available.

The regulation will apply to (1) all open-end consumer credit, whether secured or unsecured and (2) closed-end consumer credit that is either unsecured or secured by collateral that is not being purchased with the proceeds of the credit. Examples of open-end consumer credit are:

Credit card plans, such as cards issued by financial institutions, retailers, and oil companies;

Overdraft and special check-type credit plans offered by financial institutions;

Other revolving credit plans.

Examples of closed-end consumer credit that is covered are:

Unsecured personal loans;

Loans for which the collateral provided is already owned by the borrower;

Open account and 30-day credit without regard to whether a finance charge is imposed, such as travel and entertainment card plans and retail merchant credit;

Credit secured by financial assets, other than savings deposits, when the collateral is not purchased with the loan proceeds.

Credit extended through the use of credit cards will be presumed to be consumer—that is, non-business—credit unless the creditor establishes otherwise. A creditor also will be required to treat as covered consumer credit any such credit that is sold or otherwise transferred to any non-U.S. office of the same or another entity and any such credit sold or otherwise transferred with recourse to another entity wherever located.

Examples of consumer credit that is not covered are:

Secured credit where the collateral is purchased with the proceeds of the loan, such as automobile, mobile home, and other chattel-secured loans (see Uniform Commercial Code § 9–107, including Official Comments 1 and 2);

Credit secured by financial assets when the collateral is purchased with the proceeds;

Credit secured by savings deposits held at the lending institution;

Mortgage loans where the proceeds are used to purchase the collateral or for home improvements or "bridge" loans;

Insurance company policy loans;

Credit extended by providers of utility, health and educational services;

Credit extended under state or federal government guaranteed consumer loan programs, such as student loans.

All creditors with $2 million or more of covered consumer credit outstanding as of the base date are required to file a base report on the amount of such credit outstanding with the Federal Reserve Banks by April 1, 1980. If daily data are available, a creditor shall report as its base the actual amount of covered credit outstanding on March 14, 1980 or the last day before March 14 for which such data are available; if daily data are not available, the creditor shall report as its base the amount of such credit outstanding during the last period immediately before March 14, 1980, for which such data are available. A base report may be also required of certain creditors with covered consumer credit of less than $2 million. All creditors with $2 million or more of covered consumer credit outstanding as of the base date or anytime thereafter on an average basis during any calendar month shall file monthly reports on the amount of covered consumer credit outstanding. The monthly report on the average amount of covered consumer credit outstanding during the calendar month shall be filed by the second Monday of the following month. For example, a report on the daily average amount of covered credit outstanding during May shall be filed by June 9, 1980. The initial monthly report, however, shall cover the period from March 15, 1980 through April 30, 1980 and shall be filed by May 12, 1980.

Based upon the monthly report, a covered creditor is required to maintain a special non-interest bearing deposit with the Federal Reserve (or with the Federal Home Loan Bank or Central Liquidity Facility) equal to 15% of the amount by which the average amount of its covered credit exceeds the reported base or $2 million, whichever is greater. The special deposit shall be maintained in collected funds, in the form of U.S. dollars, during the period beginning on the fourth Thursday of the month following the month for which the last report has been filed and ending on the day prior to the fourth Thursday of the next month. For example, the report covering the month of May shall be filed by June 9, 1980, and the special deposit based upon the May report shall be held beginning June 26, 1980, and continue through July 23, 1980, at which time a special deposit based upon June's report shall be required. The deposit based on the initial report, for March 15 through April 30, 1980, shall be maintained beginning May 22, 1980 and ending June 25, 1980. The amount of the special deposit may not vary during each maintenance period. Federal Reserve services, such as check collection, will not be made available based on maintenance of the special deposit.

Members of the Federal Home Loan Banks and all other savings and loan associations shall file reports and maintain the special deposit with the Federal Home Loan Banks. Credit unions, whether or not members of the National Credit Union Administration's Central Liquidity Facility, shall file reports and maintain the special deposit with the Central Liquidity Facility. Deposits maintained with the Federal Home Loan Banks and the Central Liquidity Facility shall be passed through by those entities to the Federal Reserve Banks. All other covered creditors, including commercial banks, U.S. branches and agencies of foreign banks, retailers, other credit card issuers, and finance companies, are required to file reports and maintain the special deposit with the Federal Reserve Bank for the District in which the reporting office of the creditor is located.

For purposes of reporting and determining whether the creditor's outstanding covered credit exceeds the $2 million threshold during the base period or thereafter, the covered credit of all U.S. offices of the same company and direct and indirect U.S. subsidiaries of the same parent company shall be combined, and only one base and monthly report shall be filed for the combined organization. For example, if a company has 100 offices throughout the United States, it should combine the required information from each office, and one designated reporting office should file one combined base or monthly report for the entire company. The covered credit of all U.S. offices (such as the branches, agencies and subsidiaries, including banks) of the same foreign parent company and all U.S. offices of that foreign parent's non-U.S. subsidiaries shall be combined and one office selected as the reporting office for such offices. A subsidiary is a company that is more than 50 per cent owned, directly or indirectly, by another.

These actions are being taken to curb inflationary pressures. Continuing growth of consumer credit has contributed to inflationary forces by helping to sustain consumer demand for goods and services. As a consequence of this sustained high level of demand, savings in the economy have fallen to the lowest level since the Korean War. Restraint on consumer credit will tend to encourage additional savings, which can be channeled to productive investment to increase the supply of goods. At the same time, consumer demands for the supply of goods available will be restrained. In both of these ways, restraint on consumer credit will contribute to dampening inflationary forces. The particular types of credit to which these restraints will apply are these generally showing undue strength in recent months. Thus, automobile credit, residential mortgage credit, and credit extended to purchase the collateral will not be affected by this action.

The Board believes that it is in the national interest to achieve the objective

of curbing inflation as quickly as possible, and that publication of this rule for comment or any delay in its effective date would lead to rapid increases in extensions of consumer credit that would not be subject to the regulation and would frustrate its purpose. The Board, therefore, for good cause finds that further notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to these actions are impracticable and contrary to the public interest.

Pursuant to its authority under the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board hereby amends title 12 CFR by adding a new Part 229 consisting of Subpart A to read as follows:

PART 229—CREDIT RESTRAINT

Subpart A—Consumer Credit

Sec.
229.1 Authority, purpose, and scope.
229.2 Definitions.
229.3 Reports.
229.4 Maintenance of special deposit.
229.5 Penalties.

Authority: Credit Control Act (12 U.S.C. 1901–1909) as implemented by E.O. 12201.

Subpart A—Consumer Credit

§ 229.1 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Board of Governors of the Federal Reserve System pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, dated March 14, 1980.

(b) *Purpose and Scope.* This subpart is intended to curb inflation generated by the extension of certain types of consumer credit in an excessive volume and governs extensions of such credit by all covered creditors.

§ 229.2 Definitions.

(a) For the purposes of this subpart, the terms, "Board," "credit," "creditor," "extension of credit" and "credit transaction," and "loan," shall have the meanings given them in the Credit Control Act. In addition, the following definitions apply.

(b) "Base" means the larger of $2 million or the amount of covered credit outstanding as of the close of business on the base date.

(c) "Base date" means: for a creditor that has daily credit data available, March 14, 1980 or the last day immediately before March 14, 1980 for which such data are available; for a creditor that does not have daily credit data available, the period immediately before March 14, 1980 for which credit data are available.

(d) "Closed-end credit" means all consumer credit except open-end credit.

(e) "Consumer credit" means credit extended in the U.S. primarily for personal, family, or household purposes and does not include credit for business or agricultural purposes.

(f) "Covered credit" means consumer credit that is (1) open-end credit and (2) closed-end credit which is unsecured or in which the proceeds of the credit are not being used to purchase the collateral. Covered credit that is sold or otherwise transferred after March 14, 1980 to any office located outside the U.S. of the same or another entity shall remain the covered credit of the transferor until such credit is repaid. Covered credit that is sold or otherwise transferred on a recourse basis to any U.S. office of the same or another entity shall remain the covered credit of the transferor; covered credit that is transferred on a non-recourse basis to any U.S. office of the same or another entity shall be treated as covered credit of the transferee. Covered credit does not include insurance company policy loans; credit extended by federal, state or local governments, or by providers of utility, health or education services; state or federal government guaranteed loans; or loans secured by savings deposits [1] held at the lending institution.

(g) "Covered creditor" means any creditor which extends covered credit. For purposes of determining the amount of a creditor's outstanding covered credit, the covered credit of all U.S. offices of (1) the same company, (2) U.S. subsidiaries of the same parent company, and (3) non-U.S. subsidiaries of the same parent company shall be combined. A subsidiary is a company that is more than 50 percent owned directly or indirectly by another company.

(h) "Open-end credit" means consumer credit extended on an account pursuant to a plan under which (1) the creditor may permit the customer to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide; (2) the customer has the privilege of paying the balance in full or in instalments; and (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

(i) "U.S." means the fifty states of the United States and the District of Columbia.

[1] As defined in § 217.1(e) of this chapter (Regulation Q).

§ 229.3 Reports.

(a) Each covered creditor with $2 million or more of covered credit outstanding as of the base date, and certain covered creditors as may be required by the Board, shall file a base report by April 1, 1980. The base report shall state the amount of the covered creditor's base. A creditor with a base of $2 million or more as indicated on its base report, or with covered credit outstanding in excess of $2 million on an average basis during any calendar month, shall submit monthly reports. The initial monthly report shall be filed by May 12, 1980, for the period March 15 through April 30, 1980; thereafter, the monthly report shall be filed for each full calendar month by the second Monday of the following month. The monthly report shall include the average amount of covered credit outstanding during the month (on a daily average basis if such data are available) and the amount by which that number exceeds the creditor's base.

(b) One base and one monthly report shall be filed by a reporting office for all the offices of a covered creditor. A covered creditor may designate any of its offices as its reporting office.

(c) Members of the Federal Home Loan Banks and all other savings and loan associations shall file reports with the Federal Home Loan Banks. Credit unions, whether or not members of the National Credit Union Administration's Central Liquidity Facility, shall file reports with the Central Liquidity facility. All other creditors shall file reports with the Federal Reserve Bank in whose District their reporting office is located.

§ 229.4 Maintenance of special deposit.

(a) Each covered creditor shall hold a non-interest bearing special deposit equal to 15 percent of the amount by which the average amount of its covered credit outstanding during the calendar month exceeds its base. The corresponding period during which the special deposit shall be maintained begins on the fourth Thursday of the month following the calendar month for which the report was filed and continues through the Wednesday before the fourth Thursday of the next month. The special deposit shall be maintained in collected funds in the form of U.S. dollars.

(b) Members of the Federal Home Loan Banks and all other savings and loan associations shall maintain the special deposit with the Federal Home Loan Banks. Credit unions, whether or not members of the National Credit Union Administration's Central Liquidity Facility, shall maintain the

special deposit with the Central Liquidity Facility. Deposits maintained with the Federal Home Loan Banks and the Central Liquidity Facility shall be placed with a Federal Reserve Bank. All other creditors shall maintain the special deposit with the Federal Reserve Bank to which the creditor reports.

§ 229.5 Penalties.

For each willful violation of this subpart, the Board may assess against any creditor, or officer, director or employee thereof who willfully participates in the violation, a maximum civil penalty of $1,000. In addition, a maximum criminal penalty of $1,000 and imprisonment of up to one year may be imposed for willful violation of this subpart.

By order of the Board of Governors of the Federal Reserve System, effective March 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-8663 Filed 3-18-80; 12:21 pm]

BILLING CODE 6210-01-M

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12 CFR Part 229

[Docket No. R-0281

Credit Restraint; Short Term Financial Intermediaries

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board has adopted provisions requiring money market funds and other similar creditors to maintain a special non-interest bearing deposit with the Federal Reserve equal to 15 per cent of the amount by which the investment assets of these creditors exceeds their investment assets on March 14, 1980. Special non-interest bearing deposits shall be maintained at the Federal Reserve Bank of the district in which the creditor maintains its principal place of business. The purpose of this action is to control inflation by limiting the expansion of short-term credit offered by such financial intermediaries.

EFFECTIVE DATE: March 14, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel, Lee S. Adams, Senior Attorney, C. Baird Brown, Attorney, or Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3000).

SUPPLEMENTARY INFORMATION: In accordance with the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board has adopted this Subpart of its Credit Restraint regulation to require creditors, consisting of investment companies commonly regarded as money market funds and certain common trust funds of banks that invest in short term assets (short term investment funds) to hold a non-interest bearing special deposit with the Federal Reserve against increases in their total assets. The amount of the special deposit that must be held shall be equal to 15 per cent of the amount by which the assets of the creditor exceed the amount of such assets in the creditor's portfolio on March 14, 1980. The special deposit must be made in collected funds in U.S. dollars.

A creditor will be covered if its investment portfolio primarily consists of short-term securities, deposits, or other instruments with original or remaining maturities of 13 months or less through which it extends credit to banks, federal, state or local governmental units or agencies thereof, any corporation, partnership or other business entity, or any person. Covered creditors include both open and closed-end management companies and unit investment trusts. A series of shares or units of a registered investment company is a covered creditor if the investment assets which are included in the valuation of the shares or units in the series primarily have maturities of less than 13 months. Common trust funds of banks and trust companies are also included unless all moneys contributed to them are held by the bank or trust company incidentally to the management of other trust assets. Collective investment funds consisting of funds of retirement, pension, or other tax exempt trusts are not covered.

A covered creditor, other than a unit investment trust or series of units of such a trust ("Non-unit Creditor"), that possesses assets on March 14, 1980, shall file a base report with a Federal Reserve Bank by April 1, 1980. A Non-unit Creditor that acquires or holds assets or trust moneys that cause it to become a covered creditor after March 14, 1980, shall file a base report, within two weeks after it becomes a covered creditor. The base report will state the amount of the Non-unit Creditor's covered credit, which is defined as the total amount of its investment assets and other deposits plus accrued interest, held as of March 14, 1980, whether or not it was a covered creditor at that time. If the covered creditor was not in existence on March 14, 1980, its base amount is zero.

Thereafter, each Non-unit Creditor shall file a report monthly stating the daily average amount of its net assets during each reporting period by the 21st day of the month in which the reporting period ends. The reporting periods will run from the 15th day of each month to the 14th day of the following month. For example, the first reporting period will run from March 15 to April 14, 1980, and the second from April 15 to May 14, 1980. The report for the first reporting period must be filed by April 21, 1980, and for the second by May 21, 1980. Based upon this report, a covered creditor is required to maintain a special non-interest bearing deposit with the Federal Reserve Bank in the District in which its principal place of business is located equal to 15 per cent of the amount by which the reported average of covered credit exceeds the reported base. The special deposit shall be maintained during the period beginning on the first Thursday of the first full calendar month following the period for which the report was filed and ending on the day prior to the first Thursday of the next month. For example, the special deposit based upon the first report shall be held beginning May 1, 1980 and continue through June 4, 1980, at which time a special deposit based upon the second report shall be required.

A unit investment trust or series of units of such a trust ("Unit Creditor") that holds investment assets on March 14, 1980, need not file reports or maintain special deposits, as their assets are fixed as of the date they are transferred to the trust and will not increase after March 14, 1980. A Unit Creditor that is established, by the transfer of investment assets to the trustee, after March 14, 1980, must file immediately upon acquisition of assets by the trust, a base report stating the amount of covered credit held by the trust. Each such Unit Creditor must maintain a special deposit equal to 15 per cent of the covered credit it holds. The special deposit must be maintained during the period beginning with the acquisition of assets by the Unit Creditor and ending on the day prior to termination of the trust pursuant to the terms of the trust agreement. A Unit Creditor is only required to file reports and maintain deposits if, at its inception, its assets primarily have original or remaining maturities of less than 13 months. A Unit Creditor whose assets at its inception had longer maturities, but whose asset maturities fall below 13 months as the termination of the trust

approaches is not required to report or to maintain a special deposit.

For a covered creditor that is a series of shares or units of a registered investment company, reports should be filed and deposits maintained by the registered investment company. If the entire investment company which issues such a series is a covered creditor, the entire company may file a single report and maintain a single deposit. Otherwise the investment company must file a separate report and maintain a separate deposit for each series that is a covered creditor. Maintenance of a special deposit at a Federal Reserve Bank does not entitle covered creditors to Federal Reserve services.

Recent strong demands for money and credit, generated in part by inflationary forces, have brought heavy pressure on credit and financial markets generally, with varying impacts on particular sectors of the economy. The creditors covered by this Subpart act as financial intermediaries, accepting funds from investors who desire a stable, liquid, high income investment, and extending credit primarily through the purchase of money market instruments. Rapid expansion of credit extended by these creditors has contributed to the pressures by facilitating borrowing in the markets for Eurodollars, commercial paper, bankers acceptances, and other short-term liquid instruments. Moreover, the rapid expansion of such creditors has tended to impede reasonable flows of credit to other sectors including housing, small businesses, and farmers. Restraint on the growth of money market funds and similar creditors will enable funds to flow in more usual measure to productive uses, and thus contribute to dampening inflationary forces.

These actions are being taken to curb inflationary pressures. The Board believes that it is in the national interest to achieve this objective as quickly as possible, and that publication of this rule for comment or any delay in its effective date would lead to rapid increases in extensions of credit that would not be subject to the regulation and would frustrate its purpose. The Board therefore finds for good cause that further notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to these actions are impracticable and contrary to the public interest.

Pursuant to its authority under the Credit Control Act (12 U.S.C. 1901–1909) the Board hereby adds Subpart B to its Credit Restraint regulation (12 CFR Part 229) effective March 14, 1980, as follows:

PART 229—CREDIT RESTRAINT

* * * * *

Subpart B—Short Term Financial Intermediaries

Sec.

229.11 Authority, purpose, and scope.
229.12 Definitions.
229.13 Reports.
229.14 Maintenance of special deposit.
229.15 Penalties.

Authority: Credit Control Act (12 U.S.C. 1901–1909) as implemented by E.O. 12201.

Subpart B—Short Term Financial Intermediaries

§ 229.11 Authority, purpose, and scope.

(a) *Authority.* This Subpart is issued by the Board of Governors of the Federal Reserve System pursuant to the Credit Control Act (12 U.S.C. 1901–1909), as implemented by Executive Order 12201.

(b) *Purpose and scope.* This Subpart is intended to curb inflation generated by the extension of credit by certain of those financial intermediaries which are not subject to either the amendments of law effected by Pub. L. 89–597, as amended, or section 19 of the Federal Reserve Act, as amended (12 U.S.C. 461), and which are primarily engaged in the extension of short-term credit, specifically money market funds and other similar creditors.

§ 229.12 Definitions.

(a) For the purposes of this Subpart, the terms "credit," "creditor," and "extension of credit" shall have the meanings given them in the Credit Control Act. In addition, the following definitions apply.

(b) "Base" means the amount[1] of covered credit held by a covered creditor as of the close of business on March 14, 1980.

(c) "Covered credit" means any extension of credit originated through the acquisition of a security, deposit, or other instrument,[1] including but not limited to domestic and Eurodollar certificates of deposit, U.S. Treasury bills, repurchase agreements, commercial paper, bankers acceptances, and state and local government obligations, and any interest accrued thereon.

(d) "Covered creditor" means any creditor (1) that is (i) an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, (ii) any series of shares or units of such a company, or (iii) any common trust fund or similar fund maintained by a bank or trust company exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank or trust company in its capacity as a trustee, unless all moneys contributed thereto are held incidentally to the management of other trust assets; and (2) whose investment portfolio consists primarily of securities, deposits or other instruments, including but not limited to domestic and Eurodollar certificates of deposit, U.S. Treasury bills, repurchase agreements, commercial paper, and state and local obligations with maturities of 13 months or less.[2] However, a unit investment trust is only a covered creditor if its investment portfolio consists primarily of securities, deposits, or other instruments with maturities of 13 months or less [2] at the time the unit investment trust acquires those assets.

(e) "Security" means any security as defined in the Securities Act of 1933.

(f) "Unit investment trust" means any unit investment trust as defined in the Investment Company Act of 1940, or a series of units of such a trust.

§ 229.13 Reports.

(a) Each covered creditor except a unit investment trust shall file a base report and periodic reports. The base report shall state the amount of the covered creditor's base and shall be submitted no later than April 1, 1980, or in the case of a covered creditor that becomes a covered creditor after March 14, 1980, within two weeks of acquiring or holding assets or accepting trust moneys that cause it to become a covered creditor. Periodic reports shall be filed monthly for each period running from the 15th day of each calendar month to the 14th day of the following month, or in the case of a covered creditor that becomes a covered creditor after March 14, for each full period after it becomes a covered creditor. These reports shall be submitted by the 21st day of the month in which the reporting period ends, and shall state the amount by which the average of the daily amounts of covered credit outstanding during the reported period exceeds the base.

(b) a covered creditor that is a unit investment trust established after March

[1] Assets should be valued for purposes of this Subpart by the same procedure used by a registered investment company to value assets in calculating net-share or unit value under the Investment Company Act of 1940 and rules promulgated thereunder.

[2] This includes variable rate securities, deposits or other instruments with longer nominal maturities but with interest rates subject to adjustment at intervals shorter than 13 months.

14, 1980, shall file a base report stating the amount of covered credit it holds. This report shall be filed immediately upon acquisition of investment assets by the unit investment trust. Each such covered creditor shall also notify the appropriate Federal Reserve Bank two weeks before termination of the trust stating the projected date of termination of the trust.

(c) All reports shall be filed with the Federal Reserve Bank in the District where the covered creditor has its principal place of business.

§ 229.14 Maintenance of special deposit.

(a) Each covered creditor that is not a unit investment trust shall maintain a non-interest bearing special deposit equal to 15 per cent of the amount by which the average of the daily amounts of its covered credit outstanding during each reporting period exceeds its base. The corresponding period during which the special deposit shall be maintained begins on the first Thursday of the first full calendar month following the period for which the report was filed and ends on the day prior to the first Thursday of the following month. The special deposit shall be maintained at the Federal Reserve Bank to which the covered creditor reports.

(b) Each covered creditor that is a unit investment trust established after March 14, 1980, shall maintain a non-interest bearing special deposit equal to 15 per cent of the covered credit it holds as of the date it acquires investment assets. This special deposit shall be maintained during the period beginning with the day the covered creditor acquires assets consisting of covered credit and ending one day prior to final distribution of trust assets by the Trustee pursuant to the terms of the trust agreement. The special deposit shall be maintained at the Federal Reserve Bank to which the covered unit investment trust reports. Upon two weeks notice, the special deposit will be returned to the trustee one day prior to maturity or final distribution pursuant to the terms of the trust agreement.

(c) Special deposits shall be maintained in collected funds in the form of U.S. dollars.

§ 229.15 Penalties.

For each willful violation of this subpart, the Board may assess against any creditor, or officer, director or employee thereof who willfully participates in the violation, a maximum civil penalty of $1,000. In addition, a maximum criminal penalty of $1,000 and imprisonment of one year may be imposed for willful violation of this subpart.

Board of Governors of the Federal Reserve System, effective March 14, 1980.

Theodore E. Allison,

Secretary of the Board.

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12 CFR Part 229

[Docket No. R-0282]

Credit Restraint; Nonmember Commerical Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board has adopted provisions requiring commercial banks that are not members of the Federal Reserve System to maintain a non-interest bearing special deposit with the Federal Reserve equal to 10 per cent of the amount by which the total of certain managed liabilities of those banks exceeds the amount of such managed liabilities outstanding during a base period. The purpose of this action is to better control the expansion of bank credit and thereby serve to dampen inflationary forces. The managed liabilities affected by this action include the total of (1) time deposits in denominations of $100,000 or more with original maturities of less than one year; (2) Federal funds borrowings with original maturities of less than one year from U.S. offices of certain depository institutions and from U.S. government agencies; (3) repurchase agreements with original maturities of less than one year on U.S. government and agency securities; and (4) Eurodollar borrowings from foreign banking offices, asset sales to related foreign offices, and foreign office loans to U.S. residents. The special deposit requirement will not apply to borrowings from the United States, principally in the form of Treasury tax and loan account note balances. The 10 per cent special deposit requirement will apply to the amount by which the daily average amount of an institutions's total managed liabilities during a deposit computation period exceeds a base amount calculated generally as either the daily average amount of such liabilities outstanding during the base period (February 28 to March 12, 1980) or $100 million, whichever is greater.

EFFECTIVE DATE: March 14, 1980. The special deposit requirement is effective on marginal total managed liabilities outstanding during the seven-day computation period beginning March 20, 1980, and each seven-day period thereafter. The non-interest bearing special deposit for the computation periods beginning March 20 and 27, and April 3, 1980, must be held during the deposit maintenance period beginning April 17, 1980. Thereafter the special deposit must be held during the seven day maintenance period beginning eight days after the end of the corresponding computation period.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel, C. Baird Brown, Attorney, Paul S. Pilecki, Attorney, or Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3000).

SUPPLEMENTARY INFORMATION: In accordance with the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board has adopted this Subpart to require certain borrowers consisting of all commercial banks that are not members of the Federal Reserve System to maintain a non-interest bearing special deposit with the Federal Reserve System. This Subpart does not apply to United States branches and agencies of foreign banks that are subject to the Board's marginal reserve requirements (12 CFR 204.5(f)). Other United States branches and agencies of foreign banks are covered. The amount of the special deposit to be held will be equal to 10 per cent of the amount by which the daily average total of an institution's managed liabilities during a deposit computation period exceeds a base amount. Generally, an institution's base is the daily average amount of the institution's total managed liabilities outstanding during the base period (February 28 to March 12, 1980) or $100 million, whichever is greater. The managed liabilities on which the special deposit requirement will apply include the total of (1) time deposits in denominations of $100,000 or more with original maturities of less of one year; (2) Federal funds borrowings with original maturities of less than one year from U.S. offices of certain depository institutions and from U.S. government agencies; (3) repurchase agreements with original maturities of less than one year on U.S. government and agency securities; and (4) Eurodollar borrowings from foreign banking offices of the same institution or of other banks, asset sales to related foreign offices, and non-member commercial bank foreign office loans to U.S. resident.

Time Deposits of $100,000 or More

Managed liabilities subject to the special deposit requirement include deposits of the following types:

(a) Time deposits of $100,000 or more with original maturities of less than one year; and

(b) Time deposits of $100,000 or more with original maturities of less than one year represented by promissory notes, acknowledgements of advance, due bills, or similar obligations (written or oral) as provided in § 204.1(f) of Regulation D; and

(c) Time deposits of any denomination with remaining maturities of less than one year represented by ineligible bankers' acceptances or obligations issued by a bank's affiliate to the extent that the proceeds are supplied to the bank as provided in § 204.1(f) of Regulation D.

Credit balances of $100,000 or more with original maturities of 30 days or more but less than one year will also be treated as managed liabilities subject to the special deposit requirement. Time deposits subject to the special deposit requirement do not include savings deposits and Christmas club-type deposits.

Federal Funds and Repurchase Agreements

Certain Federal funds borrowings and repurchase agreements of non-member commercial banks are treated as managed liabilities subject to the special deposit requirement. Under this approach, the amount of borrowings with original maturities of less than one year from agencies of the United States and other non-exempt entities (together with other managed liabilities) that exceeds the institution's base, will be subject to the 10 percent special deposit requirement. The Board believes that exempting Federal funds borrowings from institutions whose liabilities already are subject to Federal reserve requirements from the special deposit requirement is appropriate to facilitate the reserve adjustment process.

Borrowings from the United States government (principally in the form of Treasury tax and loan account note balances), however, will not be regarded as managed liabilities subject to the special deposit requirement. Borrowings with original maturities of less than one year from Federal agencies and instrumentalities such as the Federal Home Loan Bank Board and the Federal Home Loan Banks will be subject to the special deposit requirement.

In the past, the term "bank" has been defined by the Board to include commercial banks, savings banks, savings and loan associations, cooperative banks, credit unions, the Export-Import Bank, and Minbanc Capital Corporation (see 12 CFR 217.137). Borrowings from all such non-member institutions by non-member commercial banks will be regarded as managed liabilities subject to the special deposit requirement.

Borrowings from domestic offices of organizations that are required by the Board to maintain reserves will not be regarded as managed liabilities subject to the special deposit requirement. The institutions that currently are required to maintain reserves include member banks, Edge Corporations engaged in the banking business (12 U.S.C. 615), Agreement Corporations (12 U.S.C. 601–604a), operations subsidiaries of member banks (12 CFR 204.117), and U.S. branches and agencies of foreign banks with worldwide banking assets in excess of $1 billion (12 U.S.C. 3105).

Under the Board's action, borrowings in the form of repurchase agreements with original maturities of less than one year involving U.S. government and agency securities also would be regarded as managed liabilities subject to the special deposit requirement. Repurchase agreements entered into with U.S. offices of member banks or organizations that are required by the Board to maintain reserves with the Federal Reserve System would not be regarded as managed liabilities subject to the special deposit requirement. Repurchase agreements entered into by non-member commercial banks with nonexempt entities, such as nonmember banks and nonbank dealers, will not be subject to the special deposit requirement if such transactions are intended to provide collateral to nonexempt entities in order to engage in repurchase transactions with the Federal Reserve System Open Market Account.

In order to continue to facilitate the activities of bank dealers in the U.S. government and agency securities markets, and to provide competitive equality between bank and nonbank dealers, the amendment permits non-member commercial banks to deduct the amount of U.S. government and agency securities held by the institution in its trading account from the total amount of its repurchase agreements entered into in determining the amount of its repurchase agreements subject to the special deposit requirement. A trading account represents the U.S. government and agency securities that are held for dealer transactions—*i.e.*, securities purchased with the intention that they will be resold rather than held as an investment. The Board expects that institutions will not reclassify U.S. government and agency securities held in their investment or other accounts to their trading accounts for the purpose of avoiding special deposit requirements.

Managed liabilities subject to the 10 per cent special deposit requirement also will include any obligation that arises from a borrowing for one business day from a dealer in securities whose liabilities are not subject to the reserve requirements of the Federal Reserve Act of proceeds of a transfer of deposit credit in a Federal Reserve Bank (or other immediately available funds), received by such dealer on the date of the loan in connection with clearance of securities transactions.

Eurodollars

The Board also has included the Eurodollar borrowings of nonmember commercial banks as managed liabilities subject to the special deposit requirement. Consequently, the amount of Eurodollars (together with other managed liabilities) of a bank that exceeds the institution's base will be subject to the 10 per cent special deposit requirement. Such Eurodollars include the institution's daily average balance of (1) borrowings with original maturities of less than one year from foreign offices of other banks and institutions that are exempt from interest rate limitations pursuant to § 217.3(g) of Regulation Q; (2) net balances due from an institution's domestic offices to its foreign offices; (3) liabilities of an institution's foreign branches to the extent that the branches hold assets (including participations) acquired from its domestic offices or has credit outstanding from the bank's foreign offices to U.S. residents.

Computation and Maintenance of Non-Interest Bearing Special Deposits

The amount of special deposits that a bank will be required to maintain each week will be determined by the amount by which the total of the institution's managed liabilities during a corresponding seven-day computation period exceeds its base of managed liabilities. The base amount for a bank that is a net borrower of managed liabilities is $100 million, or the daily average amount of its managed liabilities during the fourteen-day base period ending March 12, 1980, reduced by an adjustment for the reduction in its foreign lending from domestic offices, whichever is greater. The adjustment for any given computation period is based on the difference between the sum of its gross loans to non-United States residents and gross balances due from

foreign offices of other institutions, and the lowest gross total of such lending for any computation week beginning after March 19, 1980. That difference is then rounded down to the largest lower multiple of $2 million and subtracted from the daily average of managed liabilities for the base period. For example, if a bank has $125 million of average managed liabilities and $40 million in gross lending to foreign borrowers and institutions during the base period, and $35 million of gross lending to foreign borrowers and institutions during the week beginning March 20, 1980, its base for that computation week would be $125 million minus $4 million=$121 million (where $4 million is derived from $40 million minus $35 million=$5 million which is rounded to $4 million). If in a later week the gross lending to foreign borrowers and institutions rises to $45 million, the base remains at $121 million. If in a later week the gross lending to foreign borrowers and institutions falls to $10 million, the reduction would be $40 million minus $10 million=$30 million (no rounding needed), thus the calculated base would be $125 million minus $30 million=$95 million, but the reported base amount would be $100 million, which is a permanent floor for the base amount. The special deposit would be 10 per cent of the difference between its managed liabilities for the computation week and the $100 million base.

Rounding the reduction in the base will serve to minimize the impact of small repayments or reductions in the daily average gross loans to non-United States residents and balances due from foreign offices of other institutions. The reduction in such lending below the daily average for the base period ending March 12, 1980 will only reduce the base in increments of $2 million. This approach will enable institutions to receive ordinary repayments of foreign loans without being required to relend such funds immediately to avoid a reduction in the base.

For an institution that is a net lender of managed liabilities (that is, the sum of its managed liabilities is negative because its net Eurodollar loans to its foreign offices are greater than the total of its large time deposits, Federal funds purchased, repurchase agreements, and borrowed Eurodollars), its base will be the algebraic sum of its managed liabilities during the base period ending March 12, 1980, and $100 million. For example, if an institution has negative $150 million of managed liabilities during the base period, its base will be negative $50 million, and special deposit requirements will apply to the amount of its total managed liabilities above that amount. If such an institution maintained a daily average of total managed liabilities during a computation period of negative $30 million, it would be required to maintain the 10 percent special deposit requirement against $20 million of managed liabilities during the reserve maintenance period.

The special deposit must be maintained in collected funds in the form of U.S. dollars. Maintenance of a special deposit does not entitle a nonmember bank to Federal Reserve services.

Restraint on growth in money and credit must be a fundamental part of the process of subduing inflationary forces. Growth in bank credit in recent months has been excessive. Therefore, the Board has adopted this special deposit requirement based on managed liabilities issued by nonmember banks. This requirement will impose restraint on the sources of funds that banks typically have used to finance the expansion of bank credit. The nonmember bank special deposit requirement complements the additional restraint the Board has imposed on similar liabilities of member banks. In the absence of this constraint, nonmember banks could continue to extend credit with few limitations. Borrowers that could not be accommodated at a member bank could turn to a nonmember bank, thereby undermining restraint on bank credit. Containing the growth of bank credit financed in large part by managed liabilities at nonmember banks will thus contribute to dampening inflationary forces.

These actions are being taken to help curb the expansion of bank credit, thereby dampening inflationary pressures. The Board believes that it is in the national interest to achieve this objective as quickly as possible, and that publication of this rule for comment or any delay in its effective date would lead to rapid increases in extensions of credit that would not be subject to the regulation and would frustrate its purpose. The Board therefore finds for good cause that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to these actions are impracticable and contrary to the public interest.

Pursuant to its authority under the Credit Control Act (12 U.S.C. 1901–1909) the Board hereby adds Subpart C to its regulation regarding Credit Restraint (12 CFR Part 229) effective March 14, 1980, as follows:

Subpart C—Nonmember Commercial Banks

Sec.

229.21 Authority, purpose, and scope.
229.22 Definitions.
229.23 Reports.
229.24 Maintenance of special deposit.
229.25 Penalties.

Authority: Credit Control Act (12 U.S.C. 1901–1909), as implemented by E.O. 12201.

Subpart C—Nonmember Commercial Banks

§ 229.21 Authority, purpose, and scope.

(a) *Authority.* This Subpart is issued by the Board of Governors of the Federal Reserve System pursuant to the Credit Control Act (12 U.S.C. §§ 1901–1909), as implemented by Executive Order 12201.

(b) *Purpose and Scope.* This Subpart is intended to curb inflation by controlling the expansion of credit extended by commercial banks that are not members of the Federal Reserve System that is supported by extensions of credit to those banks in the form of managed liabilities.

§ 229.22 Definitions.

(a) For the purposes of this Subpart, the terms "credit," and "extension of credit" shall have the meanings given them in the Credit Control Act. In addition, the following definitions apply.

(b) "Covered bank" means any commercial bank that is not a member of the Federal Reserve System, or required to maintain reserves under the Federal Reserve Act.

(c) "Member bank" means any bank that is a member of the Federal Reserve System.

§ 229.23 Reports.

Each covered bank shall file with the Federal Reserve Bank for the Federal Reserve district in which its head office is located such reports as shall be required in connection with the maintenance of a special deposit under this Subpart.

§ 229.24 Maintenance of special deposit.

(a) During the seven-day deposit maintenance period beginning April 17, 1980, each covered bank shall maintain a non-interest bearing special deposit equal to 10 per cent of the sum of the amounts by which the daily average of its total managed liabilities during each of the seven-day computation periods beginning March 20 and 27, and April 3, 1980, exceeds its managed liabilities base as determined in accordance with paragraph (b). During the seven-day deposit maintenance period beginning April 24, 1980, and each deposit maintenance period thereafter, each covered bank shall maintain a non-

interest bearing special deposit equal to 10 per cent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day deposit maintenance period exceeds its managed liabilities base as determined in accordance with paragraph (b) of this section. A covered bank's managed liabilities are the total of the following:

(1)(i) Time deposits of $100,000 or more with original maturities of less than one year;

(ii) Time deposits of $100,000 or more with original maturities of less than one year representing borrowings in the form of promissory notes, acknowledgments of advance, due bills, or similar obligations as provided in § 204.1(f) of Regulation D; and

(iii) Time deposits with remaining maturities of less than one year represented by ineligible bankers' acceptances or obligations issued by a bank's affiliate, as provided in § 204.1(f) of Regulation D. However, managed liabilities do not include savings deposits, or time deposits, open account that constitute deposits of individuals, such as Christmas club accounts and vacation club accounts that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than three months;

(2) Any obligation with an original maturity of less than one year that is issued or undertaken as a means of obtaining funds to be used in its banking business in the form of a promissory note, acknowledgment of advance, due bill, ineligible bankers' acceptance, repurchase agreement (except on a U.S. or agency security), or similar obligation (written or oral) issued to and held for the account of a domestic banking office or agency [1] of another commercial bank or trust company that is not required to maintain reserves pursuant to Regulation D, a savings bank (mutual or stock), a building or savings and loan association, a cooperative bank, a credit union, or an agency of the United States, the Export-Import Bank of the United States, Minbanc Capital Corporation and the Government Development Bank for Puerto Rico;

(3) Any obligation with an original maturity of less than one year that is issued or undertaken as a means of obtaining funds to be used in its banking business in the form of a repurchase agreement arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the institution is obligated to repurchase except repurchase agreements issued to a domestic banking office or agency of a member bank, or other organization that is required to maintain reserves under Regulation D pursuant to the Federal Reserve Act,[2] to the extent that the amount of such repurchase agreements exceeds the total amount of United States and agency securities held by the covered bank in its trading account;

(4) Any obligation that arises from a borrowing by a covered bank from a dealer in securities that is not a member bank or other organization that is required to maintain reserves pursuant to Regulation D,[2] for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank (or other immediately available funds), received by such dealer on the date of the loan in connection with clearance of securities transactions;

(5) Borrowings with an original maturity of less than one year from foreign offices of other banks and from institutions that are exempt from interest rate limitations pursuant to § 217.3(g) of Regulation Q;

(6) Net balances due from the covered bank's domestic offices to its foreign branches;

(7) Liabilities of a foreign branch of the covered bank to the extent that the foreign branch holds assets (including participations) acquired from the covered bank's domestic offices; and

(8) Liabilities of a foreign branch of the covered bank to the extent that it has credit outstanding from its foreign branches to U.S. residents [3] (other than assets acquired and net balances due from its domestic offices). *Provided,* That this paragraph does not apply to credit extended (i) in the aggregate amount of $100,000 or less to any United States resident, (ii) by a foreign branch which at no time during the computation period had credit outstanding to United States residents exceeding $1 million, (iii) under binding commitments entered into before May 17, 1973, or (iv) to an institution that will be maintaining reserves on such credit under paragraphs (c) or (f) of § 204.5 of Regulation D or under Regulation K.

(b) *Managed liabilities base.* During the seven-day deposit computation period beginning March 20, 1980, and during each seven-day deposit computation period thereafter, the managed liabilities base of a covered bank shall be determined as follows:

(1) For a covered bank that, on a daily average basis, is a net borrower of total managed liabilities during the fourteen-day base period ending March 12, 1980, its managed liabilities base shall be the daily average of its total managed liabilities during the base period reduced by the amount by which its lowest daily average of gross loans to non-United States residents [3] and gross balances due from foreign offices of other institutions [4] or institutions the time deposits of which are exempt from the rate limitations of Regulation Q pursuant to § 217.3(g) thereof [5] outstanding during any computation period after March 12, 1980, is lower than the daily average amount of such loans and balances outstanding during the base period. The amount of the reduction shall be rounded down to the largest lower multiple of $2 million. However, in no event will the managed liabilities base for a covered bank that was a net borrower of managed liabilities during the fourteen-day base period ending March 12, 1980, be less than $100 million.

(2) For a covered bank that, on a daily average basis, is a net lender of total managed liabilities during the fourteen-day base period ending March 12, 1980, its managed liabilities base shall be the sum of its daily average negative total managed liabilities and $100 million.

(c) The special deposit shall be maintained at the Federal Reserve Bank to which the covered bank reports. The special deposit must be maintained in collected funds in the form of U.S. dollars.

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[1] Any banking office or agency in any State of the United States or the District of Columbia of a bank organized under domestic or foreign law.

[2] Edge Corporations engaged in banking, Agreement Corporations, operations subsidiaries of member banks and U.S. branches and agencies of foreign banks with worldwide banking assets in excess of $1 billion.

[3] A United States resident is: (a) Any individual residing (at the time the credit is extended) in any State of the United States or the District of Columbia; (b) any corporation, partnership, association or other entity organized therein ("domestic corporation"); and (c) any branch or office located therein of any other entity wherever organized. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more such domestic corporations will not be deemed to be credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

[4] Any banking office located outside the States of the United States and the District of Columbia of a bank organized under domestic or foreign law.

[5] A foreign central bank, or any international organization, of which the United States is a member, such as the International Bank for Reconstruction and Development (World Bank), International Monetary Fund, Inter-American Development Bank, and other foreign international, or supranational entities exempt from interest rate limitations under § 217.3(g)(3) of Regulation Q (12 CFR 217.3(g)(3)).

§ 229.25 Penalties.

For each willful violation of this part, the Board may assess against any creditor, or officer, director or employee thereof who willfully participates in the violation, a maximum civil penalty of $1,000. In addition, a maximum criminal penalty of $1,000 and imprisonment of one year may be imposed for willful violation of this part.

Board of Governors of the Federal Reserve System, effective March 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-8665 Filed 3-18-80; 12:21 pm]

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Federal Register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

Deadlines for Comments on Proposed Rules for the Week of March 30, 1980 through April 5, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

15555 3–11–80 / Quantity of hops that may be freely marketed from the 1980 crop; comments by 3–26–80

Animal and Plant Health Inspection Service—

10752 2–19–80 / Re-entry and importation of pet birds, final rules; comments by 4–4–80

Farmers Home Administration—

6792 1–30–80 / Operating loan policies, procedures and authorizations; comments by 3–31–80

Food and Nutrition Service—

7227 2–1–80 / National School Lunch Program; School Breakfast Program, Summer Food Service Program for Children; submission of claims for reimbursement; comments by 3–31–80

CIVIL AERONAUTICS BOARD

7567 2–4–80 / Insurance requirements for U.S. and foreign air carriers; reply comments by 4–1–80

COPYRIGHT ROYALTY TRIBUNAL

14884 3–7–80 / Requirements for 1980 filing of claims to cable royalty fees; comments by 3–31–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

6951 1–31–80 / Assignments and adjustments to firms; allocation level for mail hauling; comments by 4–4–80

Federal Energy Regulatory Commission—

12777 2–27–80 / Disclosed estimation methodology approach for determination of volumes of natural gas used for exempt purposes under the incremental pricing program; comments extended to 3–31–80

[Originally published at 45 FR 21, 1–2–80]

15556 3–11–80 / Exemption for small industrial boiler fuel facilities from incremental pricing provisions of the Natural Gas Policy Act of 1978; comments by 4–4–80

[*See also* 44 FR 57783, 10–5–79]

15563 3–11–80 / Permanent Rule Defining Agricultural uses exempt from incremental pricing under the Natural Gas Policy Act of 1978 and rule exempting agricultural uses from incremental pricing surcharges; comments by 4–4–80

15559 3–11–80 / Permanent Rule defining small existing industrial boiler fuel users exempt from incremental pricing under the Natural Gas Policy Act of 1978; comments from 4–4–80

15555 3–11–80 / Procedures to be used for the first ten months of the incremental pricing program by industrial users in calculating the volumes of natural gas subject to incremental pricing surcharges; comments by 4–4–80

[*See also* 45 FR 21, 1–2–80]

13122 2–28–80 / Treatment under incremental pricing program of natural gas used as boiler fuel to raise steam which forms a step in the manufacturing process for fertilizer; comments by 3–31–80

ENVIRONMENTAL PROTECTION AGENCY

7758 2–4–80 / Ammonium sulfate manufacture; standards of performance; comments by 4–5–80

13732 3–3–80 / Exclusion and exemption of motor vehicles and motor vehicle engines from certain prohibitions or requirements under the Clean Air Act; comments by 4–2–80

14232 3–5–80 / Hazardous waste and hazardous waste management, availability of information on hazardous waste testing procedures; comments by 4–4–80

16208 3–13–80 / Ink formulating point source category effluent guidelines, pretreatment standards, and new source performance standards; comments for proposed ink formulating industry by 3–31–80

14072 3–4–80 / Montana; designation of areas for air quality planning purposes; comments by 4–3–80

1252 1–4–80 / Noise emission standards for interstate rail carriers; comments by 4–4–80

14232 3–5–80 / Polychlorinated biphenyls (PCB's); request for information on PCB transformers; comments by 4–4–80

7582 2–4–80 / Virginia; attainment status designations; comments by 4–4–80

FEDERAL COMMUNICATIONS COMMISSION

19902 3–7–80 / Authorization of use of low power radio transmitters by police radio service licenses in the 30–50 mHz 150–174 mHz and 450–470 mHz bands; comments by 3–31–80

2857 1–15–80 / Cellular mobile communication systems; band use; inquiry; comments by 4–1–80

14075 3–4–80 / Domestic public land mobile radio service; air-ground assignment to Tallahassee, Fla.; comments by 4–4–80

7583 2–4–80 / Establishment of disaster radio response program in local government radio service for States, territories, and possessions; comments by 4–4–80

8673 2–8–80 / FM assignment to Big Rapids, Mich.; comments by 3–31–80

9755 2–13–80 / FM broadcast station in Los Osos—Baywood Park Calif.; proposed changes in table of assignments; comments by 3–31–80

17043 3–17–80 / FM broadcast station assignment to Malakoff, Tex.; reply comments period extended to 3–31–80

[*See also* 45 FR 1920, 1–9–80]

8674 2–8–70 / FM assignment to Olympia, Wash.; comments by 3–31–80

9023 2–11–80 / FM broadcast stations in Blue Ridge, Ga. and Murphy, N.C.; changes in table of assignments; comments by 4–4–80

9022 2–11–80 / FM broadcast station in Hudson Falls, N.Y.; changes in table of assignments; comments by 4–4–80

6419 1–28–80 / Operation of visual and aural transmitters of TV stations; comments by 3–31–80

3064 1–16–80 / Policy and rules on rates for competitive common carrier services and facilities authorizations; period for reply comments on Part XI extended to 4–4–80

[Originally published at 44 FR 67445, 11–26–79 and corrected at 44 FR 73130, 12–17–79]

14074 3–4–80 / Proposals received in cellular rulemaking; comments by 4–1–80

14074 3–4–80 / Public mobile radio services; revision and update of rules; comments by 3–31–80

12446 2–26–80 / Public mobile radio services; elimination of financial qualifications; comments by 4–4–80

9024 2–11–80 / Television broadcast station in Crossville, Tenn.; changes in table of assignments; comments by 4–4–80

FEDERAL ELECTION COMMISSION

13767 3–3–80 / Contributions to an expenditures by delegates to National Nominating Conventions; comments by 4–2–80

FEDERAL REGISTER ADMINISTRATIVE COMMITTEE

13715 2–29–80 / Identification of subjects in agency regulations; comments by 3–31–80

[*See also* 45 FR 2998, 1–15–80]

GENERAL SERVICES ADMINISTRATION

9267 2–12–80 / Commercial products; temporary regulations; comments by 3–31–80

National Archives and Records Service—

14073 3–4–80 / Fees for reproduction services and location of records and hours of use; comments by 4–3–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Civil Rights Office—

14233 3–5–80 / Equal opportunity in employment provisions applicable to the Public Broadcasting Services, National Public Radio, and Telecommunications entities receiving Federal funds from the Corporation of Public Broadcasting; comments by 4–1–80

[*See also* 44 FR 75676, 12–21–79]

INTERIOR DEPARTMENT

Fish and Wildlife Service—

9028 2–11–80 / Migratory bird hunting; nontoxic shot zones for waterfowl hunting, for hunting seasons commencing in 1980; comments by 3–31–80

Land Management Bureau—

13968 3–3–80 / Exploration and mining wilderness review program; comments by 4–2–80

INTERSTATE COMMERCE COMMISSION

10386 2–15–80 / Administrative appeals in non-rail proceedings; comments by 3–31–80

13479 2–29–80 / Expansion of air terminal zones at specified major "air cargo centers"; comments by 3–31–80

14234 3–5–80 / Rail market dominance and related considerations; comments extended to 4–2–80

[*See also* 45 FR 3353, 1–17–80]

LABOR DEPARTMENT

Employment Standards Administration—

14070 3–4–80 / Farm labor contractor registration; documents acceptable as evidence of bona fide inquiry of employability status; comments by 4–3–80

NATIONAL CREDIT UNION ADMINISTRATION

15939 3–12–80 / Federal credit unions; loan interest rates; increase; comments by 3–31–80

6795 1–30–80 / Special share accounts and definition of gross income, risk assets and liquid assets; comments by 3–30–80

NUCLEAR REGULATORY COMMISSION

6793 1–30–80 / Domestic licensing of production and utilization facilities; operational data gathering; comments by 3–31–80

PERSONNEL MANAGEMENT OFFICE

7263 2–1–80 / Pay administration; back pay; clarification and simplification; comments by 4–1–80

POSTAL SERVICE

14605 3–6–80 / Solicitations in guise of bills, invoices, or statement of account; comments by 4–5–80

SECURITIES AND EXCHANGE COMMISSION

15941 3–12–80 / Requests for confidential treatment of records obtained by the Commission; comments by 4–4–80

TENNESSEE VALLEY AUTHORITY

11835 2–22–80 / Nondiscrimination with respect to aged; comments by 3–30–80

TRANSPORTATION DEPARTMENT

Coast Guard—

10814 2–19–80 / Cedar Point, Sandusky, Ohio; establishment of special anchorage area; comments by 4–1–80

10813 2–19–80 / Duluth-Superior Harbor, Duluth, Minn.; establishment of special anchorage area; comments by 4–1–80

10813 2-19-80 / Manatee River, Bradenton, Fla.; establishment of special anchorage area; comments by 4-1-80
10815 2-19-80 / Muskegon Lake East, Muskegon, Mich.; establishment of special anchorage area; comments by 4-1-80
10810 2-19-80 / Niagara River, Youngstown, N.Y.; enlargement of special anchorage area; comments by 4-1-80
10811 2-19-80 / San Francisco Bay; expansion of anchorage No. 5; comments by 4-1-80
10812 2-19-80 / San Juan Harbor, P.R.; reduction of temporary anchorage E; comments by 4-1-80
Federal Aviation Administration—
7540 2-4-80 / Air taxi operators and commercial operators; communter pilot in command operating experience requirements; comments by 4-1-80
[*See also* 45 FR 7246, 2-1-80]
Federal Highway Administration—
69586 12-3-79 / Maximum weight of trucks on interstate highway system highways; comments by 3-30-80
National Highway Traffic Safety Administration—
77210 12-31-79 / Federal motor vehicle safety standards; improvement of seat belt assemblies; comments by 4-1-80
13785 3-3-80 / Federal motor vehicle safety standards; new pneumatic tires—passenger cars; loading schedules for certain tire sizes; increase of; comments by 4-2-80
77199 12-31-79 / Light truck average fuel economy standards for model years 1983-85; comments by 3-31-80
Research and Special Programs Administration—
8323 2-7-80 / Transportation of liquids by pipeline; addition of water to pipelines transporting anhydrous ammonia; comments by 4-1-80
72201 12-13-79 / Transportation of natural and other gas by pipeline; leakage surveys; comments by 3-31-80
TREASURY DEPARTMENT
Internal Revenue Service—
6800 1-30-80 / Income tax; election in certain liquidations for involuntary conversion; comments by 3-31-80
6800 1-30-80 / Option to capitalize or deduct intangible drilling and development costs in the case of wells drilled for any geothermal deposit; comments by 3-31-80
VETERANS ADMINISTRATION
14071 3-4-80 / Medical benefits; nursing home care in foreign countries; comments by 4-3-80

Deadlines for Comments on Proposed Rules for the Week of 3-23 through 3-29-80

AGRICULTURE DEPARTMENT
Agricultural Stabilization and Conservation Service—
6115 1-25-80 / Disclosure of foreign investment in U.S. agricultural land; comments by 3-25-80
Commodity Credit Corporation—
12826 2-27-80 / Proposed 1980 price support level, grade loan rates, and program procedures—flue-cured tobacco; comments by 3-28-80
Rural Electrification Administration—
4358 1-22-80 / Design manual for high voltage transmission lines; revision; comments by 3-24-80
COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
9303 2-12-80 / Public input on the Draft Environmental Impact Statement/Fishery Management Plan for Coastal Migratory Pelagic Resources (Mackerel); Comments by 3-24-80
DEFENSE DEPARTMENT
Army Department—
6566 1-29-80 / Military absentee and deserter apprehension; comments by 3-28-80
Office of the Secretary—
76303 12-26-79 / Vinson-Trammel Act: Excess profits on contracts for naval vessels on military aircraft; comments by 3-25-80
ENERGY DEPARTMENT
Economic Regulatory Administration—
12444 2-26-80 / Resellers' and reseller-retailers' price rules for gasoline; comments by 3-23-80
[Originally published at 44 FR 69602, 12-3-79]
Federal Energy Regulatory Commission—
13414 2-28-80 / High-cost natural gas produced from tight formations; comments by 3-28-80
ENVIRONMENTAL PROTECTION AGENCY
9548 2-12-80 / Ocean discharge criteria; comments by 3-28-80
FEDERAL COMMUNICATIONS COMMISSION
3353 1-17-80 / American Telephone and Telegaph Co., private line rate structure and volume discount practices; comments by 3-24-80
3064 1-16-80 / Establishment of automated, interconnected maritime ship/shore communications system on Mississippi River system; comments by 3-24-80
[Corrected at 45 FR 13477, Feb. 29, 1980]
3941 1-21-80 / FM assignment to Paxton, Ill.; reply comments by 3-27-80
6970 1-31-80 / FM broadcast station in Boyce, La.; changes in table of assignments; comments by 3-24-80
6972 1-31-80 / FM broadcast station in Centralia, Mo.; changes in table of assignments; comments by 3-24-80
6633 1-29-80 / FM broadcast station in Commerce, Tex.; proposed changes in table of assignments; comments by 3-24-80
6968 1-31-80 / FM broadcast station in Mt. Vernon, Ohio; changes in table of assignments; comments by 3-24-80
6967 1-31-80 / FM broadcast station in Snowmass Village, Colo.; changes in table of assignments, comments by 3-24-80
12449 2-26-80 / FM table of assignments: Greenwood, Booneville, and Waldron, Ark.; reply comments by 3-27-80
[Originally published at 45 FR 1919, 12-19-80]
1924 1-9-80 / Granting of general exemption from certain radio-telegraph requirements of Part II to U.S. cargo vessels of 1600 gross tons and upwards navigated solely on domestic voyages along the east, west, or Gulf coasts of the U.S.; reply comments by 3-27-80
3941 1-21-80 / Noncommercial educational FM assignment to Lake Havasu City, Ariz.; reply comments by 3-27-80
3064 1-16-80 / Policy and rules on rates for competitive common carrier services and facilities authorizations; reply comments period extended to 3-28-80
[Originally published at 44 FR 67445, Nov. 26, 1979 and corrected at 44 FR 73130, Dec. 17, 1979]
3939 1-21-80 / TV assignment to La Grande, Oreg.; reply comments by 3-27-80
FEDERAL HOME LOAN BANK BOARD
4361 1-22-80 / Restrictions on preferential loans; comments by 3-24-80
FEDERAL MARITIME COMMISSION
11514 2-21-80 / Collective bargaining agreements between labor unions and maritime, multi-employer collective bargaining units, exemptions; comments by 3-24-80
HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
6120 1-25-80 / Biological products; labeling standards; position and prominence of proper name; comments by 3-25-80
[Corrected at 45 FR 11854, Feb. 22, 1980]

11846 2–22–80 / Category II classification of sweet spirits of nitre for over-the-counter human use; comments by 3–24–80

12414 2–26–80 / Reduced acid frozen concentrated orange juice; establishment of identity standard; objections by 3–27–80

6117 1–25–80 / Sodium dithionite; proposed affirmation of GRAS status; comments by 3–25–80

[Corrected at 45 FR 11846, Feb. 22, 1980]

Museum Services Institute—

5648 1–23–80 / Museum Service Program provisions; comments by 3–24–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity—

12265 2–25–80 / Implementation of Title VIII, Civil Rights Act of 1968; comments by 3–25–80

Office of the Secretary—

76563 12–27–79 / Review of existing regulations; comments by 3–25–80

INTERIOR DEPARTMENT

Land Management Bureau—

6054 1–24–80 / Financial assistance, local governments payments in lieu of taxes; comments by 3–24–80

Surface Mining Reclamation and Enforcement Office—

6028 1–24–80 / Surface coal mining and reclamation operations permanent regulatory program; performance bonding; comments by 3–24–80

INTERNATIONAL TRADE COMMISSION

12835 2–27–80 / Imported steel wire rope, country-of-origin marking requirement; comments by 3–28–80

11512 2–21–80 / Postemployment employee responsibilities and conduct; comments by 3–24–80

12833 2–27–80 / Regulatory impact; comments by 3–28–80

LABOR DEPARTMENT

Employment Standards Administration—

10375 2–15–80 / Labor standards for federally financed and assisted construction; comments by 3–27–80

[*See also* 44 FR 77080, 12–28–79]

10375 2–15–80 / Labor standards for Federal service contracts; comments by 3–27–80

[*See also* 44 FR 77036, 12–28–79]

10374 2–15–80 / Wage rates; predetermination procedures; comments by 3–27–80

[*See also* 44 FR 7026, 12–28–79]

Employment and Training Administration—

4918 1–22–80 / Labor certification process for the permanent employment of aliens in the United States; comments by 3–24–80

Federal Contract Compliance Programs Office—

11856 2–22–80 / Government contractors' affirmative action requirements; comment period extended to 3–24–80 [Originally published at 44 FR 77006, Dec. 28, 1980]

4954 1–22–80 / Payment of membership fees and other expenses to private organizations; comments by 3–24–80

NATIONAL CREDIT UNION ADMINISTRATION

12211 2–25–80 / Statement of policy—National Environmental Policy Act; comments by 3–26–80

NUCLEAR REGULATORY COMMISSION

5308 1–23–80 / Change in rules of practice; comments by 3–24–80

11503 2–21–80 / Physical protection of in-transit special nuclear material of moderate strategic significance; comments by 3–24–80

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

12780 2–27–80 / Planning and design objectives, controls, and standards on the east section of Square 458; comments by 3–28–80

PERSONNEL MANAGEMENT OFFICE

6114 1–25–80 / Political participation by U.S. Government employees in Shrewsbury Township, N.J.; comments by 3–25–80

POSTAL SERVICE

9011 2–11–80 / Inclusion of electronic meters in postage meter specifications; comments by 3–27–80

TRANSPORTATION DEPARTMENT

Urban Mass Transportation Administration—

9244 2–11–80 / Bus rehabilitation program policy and procedures; comments by 3–27–80

TREASURY DEPARTMENT

Internal Revenue Service—

12851 2–27–80 / Income tax credit for the elderly; comments by 3–28–80

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—

13166 2–28–80 / Gila National Forest Land and Resource Management Plan; intent to prepare an environmental impact statement (open), Silver City, New Mexico, 3–24; Reserve, New Mexico, 3–25; Truth or Consequences, New Mexico, 3–26; El Paso, Texas, 3–27; and Las Cruces, New Mexico, 3–28–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

10093 2–14–80 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 3–27 and 3–28–80

11965 2–22–80 / Humanities Panel, Washington, D.C. (closed), 3–24 through 3–28–80

14167 3–4–80 / Humanities Panel, Washington, D.C. (closed), 3–24 and 3–25–80

14352 3–5–80 / Music Panel (Policy Section), Washington, D.C. (partially open), 3–25 and 3–26–80

14720 3–6–80 / Music Panel (Opera-Musical Theatre; Challenge Grants), Washington, D.C. (closed), 3–28–80

11966 2–22–80 / Partnership Coordination Advisory Panel to the National Council on the Arts, Washington, D.C. (open), 3–24–80

CIVIL RIGHTS COMMISSION

13790 3–3–80 / Maryland Advisory Committee, Annapolis, Md. (open), 3–25–80

13790 3–3–80 / Massachusetts Advisory Committee, Boston, Mass. (open), 3–25 and 3–26–80

15972 3–12–80 / Oklahoma Advisory Committee, Oklahoma City, Okla. (open), 3–27 and 3–28–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

15974 3–12–80 / Mid-Atlantic Fishery Management Council's Surf Clam Advisory Subpanel, Dover, Del. (open), 3–28–80

14242 3–5–80 / National Climate Program Advisory Committee, Washington, D.C. (open), 3–24 and 3–25–80

14909 3–7–80 / New England Fishery Management Council, Danvers, Mass. (open), 3–25–80

15248 3–10–80 / North Pacific Fishery Management Council and Scientific and Statistical Committee and Advisory Panel, Anchorage, Alaska (open) , 3–26 through 3–28–80

12863 2–27–80 / Operational land remote sensing satellite program, Albuquerque, N. Mex., 3–28–80

12863 2–27–80 / Operational land remote sensing satellite program, Washington, D.C., 3–25–80

U.S. Travel Service—

6637 1–29–80 / Travel Advisory Board, Washington, D.C. (open), 3–27–80

DEFENSE DEPARTMENT

Army Department—

10839 2–19–80 / Army Science Board, Washington, D.C. (open), 3–25 and 3–26–80

12474 2–26–80 / Army Science Board, St. Louis, Mo. (partially closed), 3–24 and 3–25–80

14090 3–4–80 / U.S. Army Medical Research and Development Advisory Panel ad hoc Study Group on Viral and Rickettsial Diseases, Washington, D.C. (partially open), 3–26 and 3–27–80

Navy Department—

7279 2–1–80 / Secretary of the Navy's Advisory Committee on Naval History, Washington, D.C. (open), 3–27–80

Office of the Secretary—

14242 3–5–80 / Defense Science Board Task Force on Acquisition, Washington, D.C. (closed), 3–24 and 3–25–80

9763 2–13–80 / Defense Systems Management College, Board of Visitors, Fort Belvoir, Va. (open), 3–26–80

13795 3–3–80 / DOD Advisory Group on Electron Devices, Working Group A (mainly microwave devices), New York, N.Y. (closed), 3–27–80

ENERGY DEPARTMENT

14243 3–5–80 / Environmental Advisory Committee, Subcommittee on Synfuels, Washington, D.C. (open), 3–26–80

ENVIRONMENTAL PROTECTION AGENCY

15645 3–11–80 / FIFRA Scientific Advisory Panel, Arlington, Va. (open), 3–28–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

10408 2–15–80 / Meeting, Washington, D.C. (open), 3–27–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

8359 2–7–80 / Board of Scientific Counselors, Bethesda, Md. (partially open), 3–27 and 3–28–80

15671 3–11–80 / Community Alcoholism Services Review Committee, Rockville, Md. (open), 3–26 through 3–29–80

10031 2–14–80 / Rape Prevention and Control Advisory Committee, Rockville, Md. (open), 3–27 and 3–28–80

Health Resources Administration—

11194 2–20–80 / Health Professions Education National Advisory Council, Hyattsville, Md. (partially open), 3–24 through 3–26–80

Human Development Services Office—

15266 3–10–80 / White House Conference on Aging, Washington, D.C. (open), 3–24 and 3–25–80

National Institutes of Health—

9121 2–11–80 / Biomedical Library Review Committee, Bethesda, Md. (partially open), 3–26 and 3–27–80

9118 2–11–80 / Cancer Treatment Division, Board of Scientific Counselors, Bethesda, Md. (partially closed), 3–24 and 3–25–80

3974 1–21–80 / Clinical Cancer Program Project and Cancer Center Support Review Committee, Bethesda, Md. (partially open), 3–24 through 3–26–80

[Originally published at 44 FR 73163, December 17, 1979]

9119 2–11–80 / Clinical Trials Committee, Bethesda, Md. (partially open), 3–26 and 3–27–80

15266 3–10–80 / Clinical Trials Review Committee, Bethesda, Md. (partially open), 3–27 and 3–28–80

6175 1–25–80 / General Research Support Review Committee, Chevy Chase, Md. (open), 3–26 through 3–28–80

9121 2–11–80 / National Institute of Neurological and Communicative Disorders and Stroke, Board of Scientific Counselors, Bethesda, Md. (partially open), 3–27 and 3–28–80

9119 2–11–80 / Tumor Immunology Committee, Bethesda, Md. (partially open), 3–28–80

HISTORIC PRESERVATION, ADVISORY COUNCIL

14611 3–6–80 / Wanamaker House Historic District, public information meeting, Philadelphia, Pa. (open), 3–24–80

[*See also* 45 FR 8688, 2–8–80]

IMMIGRATION AND REFUGEE POLICY SELECT COMMISSION

16387 3–13–80 / Immigrant and refugee issues, New Orleans, La., 3–24–80

INTERIOR DEPARTMENT

Land Management Bureau—

11916 2–22–80 / Carson City District Grazing Advisory Board, Fallon, Nev. (open), 3–25–80

[Corrected at 45 FR 13203, 2–28–80]

12303 2–25–80 / National Outer Continental Shelf Advisory Board; Pacific States Regional Technical Working Group Committee, Los Angeles, Calif. (open), 3–27 and 3–28–80

National Park Service—

13542 2–29–80 / Appalachian National Scenic Trail Advisory Council, Kent, Conn. (open), 3–28–80

16576 3–14–80 / Discussion of Supplement to Assessment of Alternatives for Development Concept Plan for Eastham area of Cape Cod National Seashore, Eastham, Mass. (open), 3–29–80

6479 1–28–80 / Gateway National Recreation Area, public discussion, Sandy Hook, N.J., 3–27–80

[Relocated at 45 FR 16359, 3–13–80]

8365 2–7–80 / Kalaupapa National Historical Park Advisory Commission, Honolulu, Hawaii (open), 3–24–80

16014 3–12–80 / Ozark National Scenic Riverways Advisory Committee, Van Buren, Mo. (open), 3–28–80

12305 2–25–80 / Upper Delaware Citizens Advisory Council, Narrowsburg, New York (open), 3–28–80

INTERNATIONAL COMMUNICATION COMMISSION

16359 3–13–80 / U.S. Advisory Commission on Public Diplomacy, Washington, D.C. (open), 3–28–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

14155 3–4–80 / Construction Safety and Health Advisory Committee, Washington, D.C. (open), 3–27 and 3–28–80

14155 3–4–80 / Construction Safety and Health Advisory Committee, Subgroup on Health Standards, Washington, D.C. (open), 3–25–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

12938 2–27–80 / NASA Advisory Council (NAC), Aeronautics Advisory Committee, Moffett Field, Calif. (open), 3–24 through 3–26–80

NUCLEAR REGULATORY COMMISSION

15735 3–11–80 / Advisory Committee on Reactor Safeguards, Subcommittee on Anticipated Transients Without Scram, Washington, D.C. (closed), 3–26–80

15735 3–11–80 / Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems, Washington, D.C. (closed), 3–26–80

15346 3–10–80 / Reactor Safeguards Advisory Committee, Concrete and Concrete Structures Subcommittee, Washington, D.C. (open), 3–25 and 3–26–80

15347 3–10–80 / Reactor Safeguards Advisory Committee, Natural Circulation Heat Removal Ad Hoc Subcommittee, Washington, D.C. (open), 3–25–80

POSTAL RATE COMMISSION

15366 3–10–80 / Meeting; Washington, D.C. (closed), 3–27–80

STATE DEPARTMENT

Office of the Secretary—

16388 3–13–80 / Shipping Coordinating Committee, Safety of Life at Sea Subcommittee, Washington, D.C. (open), 3–26–80

15741 3–11–80 / Study Group B of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT), Washington, D.C. (open), 3–27–80

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration—

15361 3–10–80 / Comfort and Convenience of Safety Belts, Washington, D.C. (open), 3–26–80

Office of the Secretary—

11495 2–21–80 / Non-discrimination on basis of handicap in federally assisted programs, scoping meeting on environmental impact statement, Washington, D.C. (open), 3–21–80

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

14047 3–4–80 / Milk in southern Michigan marketing area; amendments to tenative marketing agreement, Flint, Mich. 3–25–80

COMMERCE DEPARTMENT

Economic Analysis Bureau—

14063 3–4–80 / Direct investment surveys; mandatory reporting requirements, Washington, D.C., 3–26–80

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11279 2–20–80 / Report of the Register of Copyrights on the effects of 17 U.S.C. 108 on the rights of creators and the needs of users of works reproduced by certain libraries and archives, Houston, Tex., 3–26–80

DEFENSE DEPARTMENT

Navy Department—

7279 2–1–80 / Naval Discharge Review Board, Boston, Mass. and Albany, N.Y., 3–23 through 3–28–80

[*See also* 44 FR 65623, 11–14–79]

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

4359 1–22–80 / New buildings energy performance standards, hearings, Washington, D.C., 3–24 through 3–26–80

Federal Energy Regulatory Commission—

15556 3–11–80 / Exemption for small industrial boiler fuel facilities from incremental pricing provisions of the Natural Gas Policy Act of 1978, 3–28–80, Washington, D.C.

[*See also* 44 FR 57783, 10–5–79]

15559 3–11–80 / Permanent rule defining small existing industrial boiler fuel users exempt from incremental pricing under the Natural Gas Policy Act of 1978, 3–28–80, Washington, D.C.

15563 3–11–80 / Permanent rule defining agricultural uses exempt from incremental pricing under the Natural Gas Policy Act of 1978 and Rule exempting agricultural uses from incremental pricing surcharges, Washington, D.C., 3–27–80

15555 3–11–80 / Procedures to be used for the first ten months of the incremental pricing program by industrial users in calculating the volumes of natural gas subject to incremental pricing surcharges, Washington, D.C., 3–28–80

[*See also* 45 FR 21, 1–2–80]

INTERIOR DEPARTMENT

Fish and Wildlife Service—

15241 3–10–80 / Desert Tortoise; critical habitat for Beaver Dam slope population, St. George, Utah, 3–25–80

[*See also* 44 FR 70680, 12–7–79]

TENNESSEE VALLEY AUTHORITY

6225 1–25–80 / Consideration of ratemaking standards, Nashville, Tenn., 3–25–80

[*See also* 44 FR 76611, 12–27–79]

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration—

14609 3–6–80 / Highway routing of radioactive materials, Philadelphia, Pa., 3–26–80

TREASURY DEPARTMENT

Internal Revenue Service—

6415 1–28–80 / Income tax; application of conventions under class life asset depreciation range system, Washington, D.C., 3–27–80

List of Public Laws

Last Listing March 18, 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).

H.R. 4337 / Pub. L. 96–209 To provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes. (Mar. 14, 1980; 94 Stat. 96) Price $1.00.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

16485 3–14–80 / EPA—municipal wastewater treatment works construction grant program; allotment to States of fiscal year 1980 appropriation; effective 3–14–80

16412 3–13–80 / HEW/OE—National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant programs; funding process

[*See* document for effective date information]

15927 3–12–80 / HUD/CPD—Community development block grants; small cities program; revision of regulations; effective 4–11–80

15171 3–10–80 / NCUA—Community Development Credit Union Program; effective 3–10–80

DEADLINES FOR COMMENTS ON PROPOSED RULES

16142 3–12–80 / HEW/OE—Commissioner's discretionary program; proposed grant regulations; comments by 5–12–80

APPLICATIONS DEADLINES

16338 3–13–80 / HEW/HSA—Sudden infant death syndrome program; competitive grant application closing date corrected to 6–20–80

[*See also* 45 FR 11535, 2–21–80]

16010 3–12–80 / HEW/HDSO—Rehabilitation long-term training; availability of fiscal year 1980 grant funds for training of interpreters for deaf individuals; apply by 4–30–80

15677 3-11-80 / HEW/NIE—Program Research Grants on Desegregation; applications for small grants by 5-22-80 and major grants by 5-22-80

16362 3-13-80 / HEW/NIJ—Solicitation regarding study on neighborhood crime aspects; proposals due by 4-30-80

16350 3-13-80 / HEW/PHS—Projects for adolescent pregnancy prevention and services; review requirement; applications period extended to 4-15-80

[*See also* 44 FR 71908, 12-12-80]

15171 3-10-80 / NCUA—Community Development Credit Union Program; apply by 6-6-80

MEETINGS

15671 3-11-80 / HEW/ADAMHA—Mental Health Small Grant Review Committee, Washington, D.C. (open and closed), 4-9 through 4-12-80

15679 3-11-80 / HEW/NIH—Cancer Research Manpower Review Committee, Bethesda, Md. (closed), 5-8 through 5-10-80

15679 3-11-80 / HEW/NIH—Cancer Research Manpower Review Committee, San Diego, Calif. (partially open), 5-25-80

15679 3-11-80 / HEW/NIH—Cancer Research Manpower Review Committee; Subcommittee on Cancer Etiology and Prevention, San Diego, Calif. (closed), 5-23 and 5-24-80

15679 3-11-80 / HEW/NIH—Cancer Research Manpower Review Committee, Subcommittee on Treatment and Restorative Care, Detection, and Diagnosis, San Diego, Calif. (closed), 5-23 and 5-24-80

[illegible]-10-80 / HEW/NIH—Clinical Trials Review Committee, Bethesda, Md. (partially closed), 3-27 and 3-28-80

[illegible]66 3-14-80 / HEW/NIH—Mental Retardation Research Committee, Bethesda, Md. (partially open), 4-7 and 4-8-80

16362 3-13-80 / NFAH—Theatre Panel, Washington, D.C. (partially open), 4-2 through 4-5-80

16659 3-14-80 / NSF—Advisory Committee for Astronomy, Washington, D.C. (partially open), 4-2 and 4-3-80

OTHER ITEMS OF INTEREST

15248 3-10-80 / Commerce/MBDA—Change in funding for Jacksonville, Florida, Business Development Organization

[*See* 45 FR 11521, 2-21-80]

16234 3-13-80 / CSA—Anti-poverty research and demonstration projects; dates for review of unsolicited proposals; proposals will be accepted 10-1-80 through 3-31-81; funding decisions by 9-30-81

[This is NOT a solicitation for proposals]

16338 3-13-80 / HEW/OE—Nationally recognized accrediting agencies and associations

16126 3-12-80 / Justice/LEAA—Proposed LEAA guideline: Delinquency Prevention Research and Development

15346 3-10-80 / NSF—National Science Foundation Advisory Council; renewal

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: April 4 and 18; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235. Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

MEMPHIS, TENN.

WHEN: March 25 at 1 p.m.

WHO: The Office of the Federal Register in cooperation with Memphis State University.

WHERE: Assembly Room, Richardson Towers, Memphis State University.

RESERVATIONS: Call Dr. Frank Lewis, 901-454-2829.

LOS ANGELES, CALIF.

WHEN: April 14, 15, and 16; at 9 a.m.

WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, Calif.

RESERVATIONS: Call the Los Angeles Federal Information Center, 213-688-3800.