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Monday
April 7, 1980

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23602 **Educational Improvement, Resources, and Support** HEW/OE issues rules governing grant programs and projects; (Part II of this issue)

23474 **Consolidated Grants to Insular Areas** HEW/HDSO proposes rules to implement program; comments by 5-22-80

23486 **Business and Industrial Loans** USDA/FmHA amends current interest rate for private entrepreneurs to 13½ percent; effective 4-7-80

23441 **Uniform Tire Quality Grading** DOT/NHTSA amends certain standards, and also issues interpretation for measurement of tread depth; (2 documents)

23419 **Fair Market Rent Schedules** HUD/FHC revises schedules for existing housing; effective 3-29-79 and 11-1-79

23428 **Performance Certificates** FMC amends rules to increase maximum amount of insurance, escrow account, guaranty and surety bond required; effective 2-20-81

23441 **Pipeline Transportation of Natural and Other Gas** DOT/RSPA establishes requirements for testing separately protected service lines; effective 4-7-80

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Highlights

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 25

Advisory Committee Management; Amendment To Reflect Change in Appointment Authority

AGENCY: U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends paragraph (a) of § 25.17 to provide for flexibility in the authority to appoint members to advisory committees.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Carolyn Wright, Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–9895.

SUPPLEMENTARY INFORMATION: Current regulations require that national and/or statutory advisory committee members be appointed by the Secretary, while regional, state and local committee members may be appointed by the responsible agency. This regulation is being amended to provide that the Secretary may authorize the agency official responsible for any advisory committee to appoint members to that committee. This change is intended to provide the Department with increased flexibility and efficiency in the management of advisory committees.

Accordingly, paragraph (a) of § 25.17 is hereby amended to read as follows:

§ 25.17 Appointment of members.

(a) *Authority.* National and/or statutory advisory committee members shall be appointed by the Secretary. Regional, State and local advisory committee members shall be appointed by the agency official responsible for the committee, unless determined otherwise by the Department's Committee Management Officer. The Secretary may, however, provide in the establishment document of any advisory committee that members of that committee shall be appointed by the agency official responsible for that committee.

* * * * *

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12044, "Improving Government Regulations."

(5 U.S.C. 301; sec. 8, Pub. L. 92–463, 86 Stat. 773, (5 U.S.C. App. I); secs. 1801–1809, Pub. L. 95–113, 91 Stat. 1401, 7 U.S.C. 2281–2289)

Dated: March 31, 1980.

Joan S. Wallace,

Assistant Secretary for Administration.

[FR Doc. 80–10376 Filed 4–4–80; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 1004

[Milk Order No. 4; Docket No. AO–160–A56]

Milk in the Middle Atlantic Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changing present order provisions is based on industry proposals which were considered at a public hearing held July 10, 1979. The amendments change the funding rate for the advertising and promotion program from a fixed level to a rate tied to the level of producers' pay prices in the market. The funding level would be increased from seven cents to an initial level of twelve cents per hundredweight. Producers who do not want to participate in the program would submit one refund request for the year's remaining calendar quarters. Refunds to producers would be made on a monthly basis rather than quarterly. Another amendment provides a charge of 1 percent per month on any overdue obligation of a handler with such charge accruing to the administrative expense fund. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

EFFECTIVE DATE: The order provisions set forth herein shall become effective July 1, 1980, except that the provisions amending §§ 1004.72, 1004.120 (b) and (c), and 1004.121(c) and the new §§ 1004.78 and 1004.121 (e) and (f) shall become effective on June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing: Issued June 20, 1979; published June 25, 1979 (44 FR 36985). Recommended Decision: Issued November 19, 1979, published November 26, 1979 (44 FR 67427). Final Decision: Issued February 22, 1980, published February 27, 1980 (45 FR 12811).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order, except for the advertising and promotion program, is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area; and

(4) The issuance of the order amending the order relative to provisions of the advertising and promotion program is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1004.61 is revised to read as follows:

§ 1004.61 Computation of weighted averge price and uniform prices for base milk and excess milk.

(a) For each month the market administrator shall compute the "weighted average price" per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1004.60 for all handlers who filed the reports prescribed by § 1004.30 for the month and who made the payments pursuant to § 1004.71 for the preceding month:

(2) Add an amount equal to the total value of the location differentials computed pursuant to § 1004.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section; and

(ii) The total hundredweight for which a value is computed pursuant to § 1004.60(e); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

(b) Subject to paragraph (c) of this section, for each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(1) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to paragraph (a) of this section as follows:

(i) Multiply the quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(ii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iii) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and round to the nearest cent:

(3) Subtract the withholding rate for the advertising and promotion program as computed in § 1004.121(e). The result shall be the uniform price for excess milk;

(4) From the amount resulting from the computations of paragraphs (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(5) Subtract the aggregate value of excess milk determined in paragraph (b)(1) of this section;

(6) Divide the result obtained in paragraph (b)(5) of this section by the total hundredweight of base milk for handlers included in the computations pursuant to paragraph (a) of this section and subtract not less than 4 cents nor more than 5 cents per hundredweight; and

(7) Subtract the withholding rate for the advertising and promotion program as computed in § 1004.121(e). The result shall be the uniform price for base milk.

(c) If the base milk price obtained in paragraph (b)(7) of this section should exceed the Class I price, the aggregate amount in excess thereof shall be included in the computation of the excess milk price pursuant to paragraph (b)(1) of this section, except that if by such addition the excess milk price should exceed the base milk price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk.

2. In § 1004.71, paragraph (b)(2) is revised to read as follows:

§ 1004.71 Payments to the producer settlement fund.

* * * * *

(b) * * *

(2) The value at the weighted average price, adjusted by the applicable location differential on nonpool milk pursuant to § 1004.75(b), with respect to other source milk for which a value was computed pursuant to § 1004.60(e).

* * * * *

3. Section 1004.72 is revised to read as follows:

§ 1004.72 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1004.71(b) exceeds the amount computed pursuant to § 1004.71(a), subject to the following conditions:

(a) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(b) If the 16th day after the end of the month is a Saturday, Sunday, or national holiday, the market administrator may delay payments pursuant to this section until the next

day his office is open for public business.

4. In § 1004.73, paragraph (a)(2) is revised to read as follows:

§ 1004.73 Payments to producer and to cooperative associations.

(a) * * *

(1) * * *

(2) On or before the 20th of the following month at not less than the uniform price for base milk computed pursuant to § 1004.61(b) with respect to base milk received from such producer and not less than the uniform price for excess milk computed pursuant to § 1004.61(b) for excess milk received from such producer, subject to the following adjustments:

(i) Proper deductions authorized in writing by such producer;

(ii) Partial payment made pursuant to paragraph (a)(1) of this section;

(iii) The butterfat differential computed pursuant to § 1004.74;

(iv) Less the location differential applicable pursuant to § 1004.75; and

(v) If by such date such handler has not received full payment from the market administrator pursuant to § 1004.72 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

* * * * *

5. In § 1004.75, paragraph (b) is revised to read as follows:

§ 1004.75 Location differentials to producers and on nonpool milk.

* * * * *

(b) For purposes of computations pursuant to §§ 1004.71 and 1004.72 the weighted average price shall be reduced at the rate set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class II price.

6. In § 1004.76, paragraph (b)(5) is revised to read as follows:

§ 1004.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price, subtract its value at the weighted average price, and add for the quantity of reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price less the value of such milk at the Class II price (except that the Class I price and the weighted average price shall be adjusted for the location of the nonpool plant and shall not be less than the Class II price).

7. A new § 1004.78 is added to read as follows:

§ 1004.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1004.71, 1004.73, 1004.76, 1004.77, 1004.79, 1004.85, or 1004.86 shall be increased 1 percent beginning on the day after the due date, and on the same day of each succeeding month until such obligation is paid, subject to the following conditions:

(a) The amount payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously computed pursuant to this section and all such amounts shall be paid to the administrative assessment fund maintained by the market administrator;

(b) Any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due; and

(c) Payments shall be deemed not to have been made until such payments have been received, except:

(1) Any payment received after the due date in an envelope that is postmarked not later than the second day prior to the due date shall be considered to have been received by the due date; and

(2) If the date by which payments must be received falls on a Saturday or Sunday or on a national holiday, payments shall be considered to have been received by the due date if received not later than the next day on which the market administrator's office is open for public business.

8. In § 1004.120, paragraphs (b), (c) and (d) are revised to read as follows:

§ 1004.120 Procedure for requesting refunds.

* * * * *

(b) Except as provided in paragraph (c) of this section, the request must be submitted within the first 15 days of December for milk to be marketed during the following calendar year and during the first 15 days of March, June, or September for milk to be marketed from the first of the immediately following month through the remainder of the calendar year.

(c) Upon first acquiring producer status under this part, a dairy farmer shall, upon application filed with the market administrator pursuant to paragraph (a) of this section by the end of the month immediately following the month in which producer status is acquired, be eligible for refund on all marketings against which an assessment is withheld during the current calendar year and if producer status was first acquired in December such producer shall be eligible for a refund on all marketings during December and the following calendar year.

(d) A producer, located in a State which has a State advertising and promotion program in which producers are required to participate unless they are participating in an advertising and promotion program under a Federal order, may (in lieu of a refund request) authorize the market administrator to pay to the State the amount of his required participation not in excess of the rate computed pursuant to § 1004.121(e).

9. In § 1004.121 the introductory text of paragraph (b), paragraphs (b) (2), (3), and (4), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1004.121 Duties of the market administrator.

* * * * *

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the computation of uniform prices for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) To producers, a refund of the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) To any State, a payment on behalf of any producer for which a specific authorization has been received pursuant to § 1004.120(d), but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the

volume of milk pooled by any such producers for which deductions were made pursuant to this paragraph.

(4) After the end of each month, make a refund to each producer who made application for such refund pursuant to § 1004.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to, or on behalf of, the producer pursuant to paragraph (b) (2) and (3) of this section.

(c) Promptly after the issuance of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1104.110 through 1104.122).

* * * * *

(e) As soon as possible after September of each year compute the rate of withholding as follows:

(1) Compute the simple average of the monthly weighted average prices for the six-month period ending September 30; and

(2) Multiply the price computed pursuant to paragraph (e)(1) of this section by one percent and round to the nearest full cent. This rate shall apply during the following calendar year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

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

Effective date: The order provisions set forth herein shall become effective July 1, 1980, except that the provisions amending §§ 1004.72, 1004.120 (b) and (c), and 1004.121(c) and the new §§ 1004.78 and 1004.121 (e) and (f) shall become effective on June 1, 1980.

Signed at Washington, D.C., on April 1, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-10401 Filed 4-4-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1032, 1050, and 1062

[Milk Order Nos. 32, 50, and 62]

Milk in the Southern Illinois, Central Illinois, and St. Louis-Ozarks Marketing Areas; Order Terminating Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of rules.

SUMMARY: This action terminates order provisions providing for seasonal payment plans (Louisville plans) for producers under the Southern Illinois, Central Illinois and St. Louis-Ozarks milk orders. The plan in each order provides for withholding 15 cents per hundredweight during March and July and 25 cents per hundredweight during April, May and June for distribution to producers during September through December. The payment plans are used to encourage more level production throughout the year.

Comments regarding the proposed termination were invited from interested parties. No views in opposition were received.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTAL INFORMATION: Prior documents in this proceeding: Notice of proposed termination: Issued March 3, 1980; published March 7, 1980 (45 FR 14867).

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. *et seq.*), and of the orders regulating the handling of milk in the Southern Illinois, Central Illinois and St. Louis-Ozarks marketing areas.

Notice of proposed rulemaking was published in the **Federal Register** (45 FR 14867) concerning a proposed termination of certain provisions of the orders. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposals set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that the following provisions of the Southern Illinois, Central Illinois and St. Louis-Ozarks orders no longer tend to effectuate the declared policy of the Act:

§ 1032.61(e) [Amended]

1. In 7 CFR Part 1032 (Southern Illinois) that part of § 1032.61(e) which reads ", except for the months specified below, shall be", and the provisions contained in § 1032.61(f) through (j) in their entirety.

§ 1050.61 [Amended]

2. In 7 CFR Part 1050 (Central Illinois) that part of § 1050.61(e) which reads ", except for the months specified below, shall be", and the provisions contained in § 1050.61(f) through (j) in their entirety.

§ 1062.61 [Amended]

3. In 7 CFR Part 1062 (St. Louis-Ozarks) the provisions contained in § 1062.61(f) through (j) in their entirety and that part of § 1062.61(1) that reads "Subtract not less than 4 cents nor more that 5 cents per hundredweight".

Statement of Consideration

The termination would delete those provisions of 7 CFR Parts 1032, 1050, and 1062 that provide for the accumulation and disbursement of money due producers with the intent of encouraging seasonal adjustments in milk production. Under such provisions (the "take out-payback" or "Louisville" plan), money withheld from the pool during March through July (15 cents per hundredweight during March and July and 25 cents per hundredweight during April, May and June) is paid out to producers for deliveries of milk during September through December (20 percent in September and December and 30 percent in October and November).

The termination of these provisions in the orders was requested or supported by cooperative associations representing a majority of the producers supply each of the three markets.

As the cooperatives indicated in their petition, the seasonal payment plans are no longer resulting in orderly marketing conditions for producers regularly associated with these markets. Milk supplies normally associated with other markets are often shifted to the three markets in question to take advantage of the higher uniform prices that result from the operation of the Louisville plan during the fall "payback" months. Then, during the spring "takeout" months, such milk supplies are shifted back to the market from which the milk originated. Such shifting of milk supplies works to the disadvantage of producers who are regularly associated with the three markets. As a consequence of such shifting, a portion of the producer returns contributed by the "regular" producers during the spring months is distributed during the fall months to

dairy farmers who are normally associated with other markets during the remainder of the year.

As the cooperatives also pointed out, the current payment plans reduce the blend prices in the three markets during the spring months below the competitive pay prices in overlapping milksheds of other Federal order markets where no seasonal payment plans are used. Under these circumstances, there has been a tendency for the milk supplies in the three markets to shift to markets that do not have seasonal production incentive plans. This loss of milk supplies to other markets is causing a disruption in the availability of milk supplies for the three markets.

In response to the requests received from cooperatives, the Department issued a proposed termination order on March 3, 1980 (45 FR 14867) inviting interested parties to submit comments on the cooperatives' requests. A cooperative association that markets milk in the Southern Illinois and Central Illinois markets responded in favor of the proposed action for these two markets. Also, a dairy farmer submitted views in favor of the termination action for all three orders. No views in opposition were submitted.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This termination is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the three marketing areas in that continuation of the plans could cause a disruption in the availability of milk supplies for the three markets. Also, as previously noted, the operation of the Louisville plans affects the level of the uniform prices for these markets during March–July and September–December. For this reason, the termination action needs to be made effective April 7, 1980.

(b) This termination does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this termination.

Therefore, good cause exists for making this order effective April 7, 1980.

It is therefore ordered, That the aforesaid provisions of the Southern Illinois, Central Illinois, and St. Louis-Ozarks orders are hereby terminated.

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

Effective date: April 7, 1980.

Signed at Washington, D.C., on April 1, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-10403 Filed 4-4-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1068

[Milk Order No. 68]

Milk in the Upper Midwest Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends a requirement under the Upper Midwest marketing order that handlers make a partial payment for milk received from producers for whom a cooperative association is not collecting payments by the 25th day of the month. The operators of three proprietary pool plants and a cooperative association indicated that the suspension would accommodate producers in spacing payments for milk about 15 days apart. The suspension was opposed by a dairy farmer who preferred a different payment schedule. The suspension would be for the period May 1980 through April 1981.

DATE: Effective May 1, 1980.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7311.

SUPPLEMENTAL INFORMATION: Prior document in this proceeding: Notice of proposed suspension issued February 28, 1980, published March 4, 1980 (45 FR 14059).

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and of the order regulating the handling of milk in the Upper Midwest marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (45 FR 14049) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

Three proprietary handlers and a cooperative association filed comments supporting the suspension. A dairy farmer filed a comment opposing the suspension.

After consideration of all relevant material, including the proposal in the notice, the comments received and other available information, it is found and determined that for the months of May 1980 through April 1981 the following provisions of the order do not tend to effectuate the declared policy of the Act:

§ 1068.73 [Amended]

In § 1068.73, paragraph (a)(4) in its entirety.

Statement of Consideration

The Upper Midwest milk order, which became effective June 1, 1976, initially required a partial payment to producers and cooperative associations on the 25th day of the month for milk received during the first 15 days of the month. Final payment was due, and still is, by the 18th day of the following month. These were the dates provided in the prior order for the Minneapolis-St. Paul area.

Many of the producers who were brought under the merged order, particularly those in Wisconsin, had been accustomed to receiving payments 15 days apart. They preferred such payments to being paid on the 18th and 25th of the month. To accommodate this, the pertinent provisions of the order have been suspended since November 1976 (41 FR 51389, 42 FR 22360, 42 FR 59747, 43 FR 19341, and 44 FR 23065). As requested, the suspensions were limited to payments to producers from whom a cooperative was not collecting payments.

A continuation of the suspension through April 1981 is supported by three proprietary handlers who operate pool plants and a cooperative association. The handlers stated that continuation of the suspension would accommodate producers supplying their plants who desire receiving payment for their milk on the 3rd and 18th days of the following month. The cooperative association stated that it and other cooperatives in the market follow the practice of making partial payments to their members about 15 days in advance of the final payment date and the suspension would give proprietary handlers the opportunity to pay their producers on about the same schedule.

A dairy farmer opposed the suspension because, in his view, it would not be in the best interests of producers. He stated that high interest rates and lack of working capital available to producers is causing cash flow to be a major concern for dairymen in the upper midwest states. He stated that if a 15 day interval for payments is vital, then he would prefer that the 25th day of the month be the partial payment date and that the final payment date be

changed from the 18th to the 10th day after the end of the month.

As indicated, these provisions have been suspended since November 1976 and this action merely extends the suspension for another temporary period. The dairy farmer who opposed the suspension can negotiate an earlier payment date with the handler who receives his milk. However, it would not be appropriate to deny other dairy farmers who prefer to have their payments spaced about 15 days apart the opportunity to receive a partial payment on the 3rd day of the following month. The suggested change in the final payment date from the 18th to the 10th day of the following month cannot be considered in connection with this suspension action, which can apply only to existing provisions for a temporary period. The payment date preferred by the dairy farmer might be appropriate for consideration at a future amendment hearing.

The suspension should be extended for an additional period of 12 months pending a hearing at which proposals to amend the partial payment provisions may be considered. The suspension will enable handlers to continue to accommodate their producers who request that their payments be spaced about 15 days apart.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior to the effective date and notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning the suspension.

Therefore, good cause exists for making this order effective May 1, 1980.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May 1980 through April 1981.

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

Effective date: May 1, 1980.

Signed at Washington, D.C., on April 1, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-10402 Filed 4-4-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 79-SO-43]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of Federal Airway; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was made in a rule published in the **Federal Register** on March 20, 1980, (45 FR 17950). Victor Airway V–290 was extended from Elizabeth City, N.C., to Hatteras Inlet, N.C., via Manteo, N.C. Recently, the Manteo VOR was renamed "Wright Brothers." The nondirectional beacon (NDB), which is collocated with the VOR retains the name "Manteo." This action corrects the error in the description of the V/290.

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: FR Doc. 80–8289 was published on March 20, 1980, which extended V–290 from Elizabeth City, N.C., to Hatteras Inlet, N.C., via Manteo, N.C., to provide a charted route that avoids all military special use airspace, thereby increasing air safety and reducing controller workload. Inadvertently, the name change of the Manteo VOR to "Wright Brothers" was overlooked (the nondirectional beacon (NDB) retains the name of Manteo). This action corrects the description of V–290.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 80–8289 as published in the **Federal Register** on March 20, 1980, is corrected as follows:

Under § 71.123, in V–290, beginning on line three: "Elizabeth City, N.C. From Manteo NDB via INT Manteo 139° bearing" is deleted and "Elizabeth City, N.C., to Wright Brothers, N.C. From Manteo NDB via INT Manteo 139° bearing" is substituted therefor.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on March 28, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-10205 Filed 4-4-80; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1241

Contract Appeals

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule with comments requested.

SUMMARY: NASA proposes to amend the rules of procedure for the adjudication of contract appeals before the NASA Board of Contract Appeals by adding a new subpart 1241.2. 14 CFR Subpart 1241.2 is necessary to implement the practices and procedures required by the Contract Disputes Act of 1978, Pub. L. 95–563, effective March 1, 1979.

As this new subpart relates to rules applicable solely to Agency practice and procedure and substantially adopts the Final Uniform Rules of Procedure for Boards of Contract Appeals published pursuant to Pub. L. 95–563 by the Office of Federal Procurement Policy at 44 FR 34227, *et seq.*, rulemaking and public procedures are unnecessary pursuant to section 563 of Title 5, United States Code. NASA is, nevertheless, inviting public comment and will consider such comments for future revisions. Comments and suggestions are invited and should be addressed to the Chairperson at the address provided below.

EFFECTIVE DATE: April 7, 1980.

ADDRESS: Comments should be sent to Frederick J. Lees, Chairperson, Board of Contract Appeals, Code NC–9, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Frederick J. Lees, 202–755–3481.

SUPPLEMENTARY INFORMATION: These regulations are intended to provide rules and procedures for contract appeals

filed pursuant to the Contract Disputes Act of 1978, or, where pursuant to that Act, an appellant elects the option to proceed in accordance with the Act. These rules do not replace or supersede the rules of practice and procedure published in 14 CFR Subpart 1241.1, effective August 26, 1977, (NASA Management Instruction 5154.2) which will continue to be used in appeals involving contracts for which an election under the Act is not available, or is not made.

This new subpart incorporates the Final Uniform Rules of Procedure for Boards of Contract Appeals under the Contract Disputes Act of 1978 issued as final guidelines for adoption by agency Boards of Contract Appeals by the Office of Federal Procurement Policy on June 14, 1979, 44 FR 34227.

14 CFR Part 1241 is amended by adding a new subpart 1241.2 reading as follows:

Subpart 1241.2—General Procedures

Sec.

1241.20 Scope.

Preface to the Rules

1241.21 Jurisdiction of the board.
1241.22 Location and organization of the board.
1241.23 General guidelines.
1241.24 Ex parte communications.

Preliminary Procedures

1241.201 Appeals, how taken.
1241.202 Notice of appeal, contents of.
1241.203 Docketing of appeals.
1241.204 Preparation, content, organization, forwarding and status of appeal file.
1241.205 Motions.
1241.206 Pleadings.
1241.207 Amendments of pleadings or record.
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1241.210 Prehearing or presubmission conference.
1241.211 Submission without a hearing.
1241.212 Optional small claims (expedited) and accelerated procedures.
1241.212–1 Elections to utilize small claims (expedited) and accelerated procedures.
1241.212–2 The small claims (expedited) procedure.
1241.212–3 The accelerated procedure.
1241.212–4 Motions for reconsideration in § 1241.212 cases.
1241.213 Settling the record.
1241.214 Discovery—depositions.
1241.215 Interrogatories to parties, admission of facts, and production and inspection of documents.
1241.216 Service of papers other than subpoenas.

Hearings

1241.217 Where and when held.
1241.218 Notice of hearings.
1241.219 Unexcused absence of a party.
1241.220 Hearings: nature, examination of witnesses.

Sec.

1241.221 Subpoenas.
1241.222 Copies of papers.
1241.223 Posthearing briefs.
1241.224 Transcript of proceedings.
1241.225 Withdrawal of exhibits.

Representation

1241.226 The appellant.
1241.227 The government.

Decisions

1241.228 Decisions.

Motion for Reconsideration

1241.229 Motion for reconsideration.

Suspensions; Dismissals and Defaults; Remands

1241.230 Suspensions; dismissal without prejudice.
1241.231 Dismissal or default for failure to prosecute or defend.
1241.232 Remand from court.

Sanctions

1241.233 Sanctions.

Effective Date

1241.234 Effective date.

Authority: 42 U.S.C. 2473.

Subpart 1241.2—General Procedures

§ 1241.20 Scope.

Subpart 1241.2 prescribes the procedures for the adjudication of appeals before the NASA Board of Contract Appeals (hereinafter referred to as the "Board") which are filed pursuant to the Contract Disputes Act of 1978, Public Law 95–563, or, where pursuant to the Act, an appellant elects the option to proceed in accordance with the Act.

Preface to the rules

§ 1241.21 Jurisdiction of the Board.

The NASA Board of Contract Appeals (referred to herein as the "Board") shall consider and determine appeals from decisions of contracting officers pursuant to the Contract Disputes Act of 1978 (Public Law 95–563, 41 U.S.C. 601–613) relating to contracts made by (a) the National Aeronautics and Space Administration, or (b) any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal. The Board is authorized to grant any relief that would be available to a litigant asserting a contract claim in the Court of Claims. In addition, the Board may perform other duties as assigned by the Administrator which are not inconsistent with its statutory duties.

§ 1241.22 Location and organization of the Board.

(a) The Board is located in Washington, D.C., and its mailing address is the Board of Contract Appeals, National Aeronautics and Space Administration, Washington, D.C. 20546. The telephone number of the Board is (202) 755–3481.

(b) The Board consists of a Chairperson, Vice Chairperson, and other members, all of whom are attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia. Normally, the appeals are assigned to a panel of at least two members of the Board. If a panel of two members is unable to agree upon a decision, the Chairperson may assign a third member to consider the appeal. The Chairperson is designated as Chief Administrative Judge and the other Board members are designated as Administrative Judges.

§ 1241.23 General guidelines.

(a) *Rules.* Appeals referred to the Board are handled in accordance with the rules of the Board.

(b) *Administration and interpretation of rules.* Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay.

(c) *Preliminary procedures.* Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(d) *Time, computation and extensions.* (1) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(2) Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(3) Requests for extensions of time from either party shall be made in writing and stating good cause therefore.

§ 1241.24 Ex parte communications.

No members of the Board or the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal, submit to the

Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to ex parte communications concerning the Board's administrative functions or procedures.

Preliminary Procedures

§ 1241.201 Appeals, how taken.

(a) Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. A copy thereof shall be furnished to the contracting officer from whose decision the appeal is taken.

(b) Where the contractor has submitted a claim of $50,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not done so, the contractor may file a notice of appeal as provided in paragraph (a) of this section, citing the failure of the contracting officer to issue a decision.

(c) Where the contractor has submitted a claim in excess of $50,000 to the contracting officer and the contracting officer has failed to issue a decision within a reasonable time, the contractor may file a notice of appeal as provided in paragraph (a) of this section citing the failure to issue a decision.

(d) Upon docketing of appeals filed pursuant to paragraphs (b) or (c) of this section, the Board may, at its option, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board.

(e) In lieu of filing a notice of appeal under paragraphs (b) or (c) of this section, the contractor may request the Board to direct the contracting officer to issue a decision in a specified period of time, as determined by the Board, in the event of undue delay on the part of the contracting officer.

§ 1241.202 Notice of appeal, contents of.

A notice of appeal should indicate that an appeal is being taken and should identify the contract (by number), the decision from which the appeal is taken, and the amount in dispute, if known. The notice of appeal should be signed personally by the appellant (the contractor taking the appeal), or by the appellant's duly authorized representative or attorney. The complaint referred to in § 1241.206 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

§ 1241.203 Docketing of appeals.

When a notice of appeal in any form has been received by the Board, it shall be docketed promptly. Notice in writting shall be given to the appellant with a copy of these rules, and to the contracting officer.

§ 1241.204 Preparation, content, organization, forwarding, and status of appeal file.

(a) *Duties of Contracting Officer*—Within 30 days of receipt of an appeal, or notice that an appeal has been filed, the contracting officer shall assemble and transmit to the Board an appeal file consisting of all documents pertinent to the appeal, including:

(1) the decision from which the appeal is taken;

(2) the contract including specifications and pertinent amendments, plans, and drawings;

(3) all correspondence between the parties relevant to the appeal, including the letter or letters of claim in response to which the decision was issued;

(4) transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) any additional information considered relevant to the appeal.

Within the same time above specified the contracting officer shall furnish the appellant a copy of each document he transmits to the Board, except those in paragraph (a)(2) of this section. As to the latter, a list furnished appellant indicating specific contractual documents transmitted will suffice.

(b) *Duties of the appellant*—Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall transmit to the Board any documents not contained therein which he considers relevant to the appeal, and furnish two copies of such documents to the government trial attorney.

(c) *Organization of appeal file*—Documents in the appeal file may be originals or legible facsimiles or authenticated copies, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) *Lengthy documents*—Upon request by either party, the Board may waive the requirements to furnish to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when inclusion would be burdensome. At the time a party files with the Board a document as to which such a waiver has been granted he shall notify the other party that the document or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of documents in appeal file*—Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party may object, for reasons stated, to consideration of a particular document or documents reasonably in advance of hearing or, if there is no hearing, of settling the record. If such objection is made the Board shall remove the document or documents from the appeal file and permit the party offering the document to move its admission as evidence in accordance with § 1241.213 and § 1241.220.

(f) Notwithstanding the foregoing, the filing of the § 1241.204 (a) and (b) documents may be dispensed with by the Board either upon request of the appellant in his notice of appeal or thereafter upon stipulation of the parties.

§ 1241.205 Motions.

(a) Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party. However, the Board may defer its decision on the motion pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own initiative to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

(b) The Board may entertain and rule upon other appropriate motions.

§ 1241.206 Pleadings.

(a) *Appellant*—Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of its claims. Appellant shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed, to the extent known. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form is required. Upon receipt of the complaint, the Board shall serve a copy of it upon the Government. Should the complaint not be received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently

defined, be deemed to set forth its complaint and the Government shall be so notified.

(b) *Government*—Within 30 days from receipt of the complaint, or the aforesaid notice from the Board, the Government shall prepare and file with the Board an original and two copies of an answer thereto. The answer shall set forth simple, concise and direct statements of Government's defenses to each claim asserted by appellant, including any affirmative defenses available. Upon receipt of the answer, the Board shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

§ 1241.207 Amendments of pleadings or record.

The Board upon its own initiative or upon application by a party may order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable it to meet such evidence.

§ 1241.208 Hearing election.

After filing of the Government's answer or notice from the Board that it has entered a general denial on behalf of the Government, each party shall advise whether it desires a hearing as prescribed in § 1241.217 through § 1241.225, or whether it elects to submit its case on the record without a hearing, as prescribed in § 1241.211.

§ 1241.209 Prehearing briefs.

Based on an examination of the pleadings, and its determination of whether the arguments and authorities addressed to the issue are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to § 1241.208. If the Board does not require prehearing briefs either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

§ 1241.210 Prehearing or presubmission conference.

(a) Whether the case is to be submitted pursuant to § 1241.211 or heard pursuant to § 1241.217 through § 1241.225, the Board may upon its own initiative, or upon the application of either party, arrange a telephone conference or call upon the parties to appear before an administrative judge of the Board for a conference to consider:

(1) simplification, clarification, or severing of the issues;

(2) the possibility of obtaining stipulations, admissions, agreements and rulings on admissibility of documents, understandings on matters already of record, or similar agreements that will avoid unnecessary proof;

(3) agreements and rulings to facilitate discovery;

(4) limitation of the number of expert witnesses, or avoidance of similar cumulative evidence;

(5) the possibility of agreement disposing of any or all of the issues in dispute; and

(6) such other matters as may aid in the disposition of the appeal.

(b) The administrative judge of the Board shall make such rulings and orders as may be appropriate to aid in the disposition of the appeal. The results of pretrial conferences, including any rulings and orders, shall be reduced to writing by the administrative judge and this writing shall thereafter constitute a part of the record.

§ 1241.211 Submission without a hearing.

Either party may elect to waive a hearing and to submit its case upon the record before the Board, as settled pursuant to § 1241.213. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submissions to be supplemented by oral argument (transcribed if requested), and by briefs arranged in accordance with § 1241.223.

§ 1241.212 Optional small claims (expedited) and accelerated procedures.

These procedures are available solely at the election of the appellant.

§ 1241.212-1 Election to utilize small claims (expedited) and accelerated procedures.

(a) In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a small claims (expedited) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in § 1241.212-2 of this Rule. An appellant may elect the accelerated procedure of paragraph (b) of this section rather than the small claims (expedited) procedure for any appeal eligible for the small claims (expedited) procedure.

(b) In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an accelerated procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in § 1241.212-3 of this Rule.

(c) The appellant's election of either the small claims (expedited) procedure or the accelerated procedure may be made by written notice within 60 days after receipt of notice of docketing, unless such period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board and for good cause.

(d) In deciding whether the small claims (expedited) procedure or the accelerated procedure is applicable to a given appeal, the Board shall determine the amount in dispute by adding to the amount claimed by the appellant against the Government the amount claimed by the Government against the appellant. If either party making a claim against the other party does not otherwise state in writing the amount of its claim, the amount claimed by such party shall be the maximum amount which such party represents in writing to the Board that it can reasonably expect to recover against the other.

§ 1241.212-2 The small claims (expedited) procedure.

(a) In cases proceeding under the small claims (expedited) procedure, the following time periods shall apply:

(1) Within 10 days from the Government's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the small claims (expedited) procedure, if not previously accomplished under § 1241.204, the Government shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any; remaining documents required under § 1241.204 shall be submitted in accordance with times specified in that rule unless the Board otherwise directs;

(2) Within 15 days after the Board has acknowledged receipt of appellant's notice of election, the assigned administrative judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties: (i) identify and simplify the issues; (ii) establish a simplified procedure appropriate to the particular appeal involved; (iii) determine whether either party wants a hearing, and if so, fix a time and place therefor; (iv) require the Government to furnish all the additional documents relevant to the appeal, and (v) establish an expedited schedule for resolution of the appeal.

(b) Pleadings, discovery, and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the date scheduled, or if no hearing is scheduled, to close the record on a date that will allow decisions within the 120-day limit. The Board, in its discretion, may impose shortened time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 120-day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the decision after closing the record and the filing of briefs, if any.

(c) Written decision by the Board in cases processed under the small claims (expedited) procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single administrative judge. If there has been a hearing, the administrative judge presiding at the hearing may, in the judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under § 1241.229.

(d) A decision against the Government or the contractor shall have no value as precedent, and in the absence of fraud shall be final and conclusive and may not be appealed or set aside.

§ 1241.212-3 The accelerated procedure.

(a) In cases proceeding under the accelerated procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion, may shorten time periods prescribed or allowed elsewhere in these rules, including § 1241.204, as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the accelerated procedure, and may reserve 30 days for preparation of the decision.

(b) Written decision by the Board in cases processed under the accelerated procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single administrative judge with the concurrence of the chair or a vice chair or other designated administrative judge, or by a majority among these two and an additional designated member in case of disagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the accelerated procedure has been elected and in which there has been a hearing, the single administrative judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes, and to establish the starting date for the period for filing a motion for reconsideration under § 1241.229.

§ 1241.212-4 Motions for reconsideration in § 1241.212 cases.

Motions for reconsideration of cases decided under either the small claims (expedited) procedure or the accelerated procedure need not be decided within the original 120-day or 180-day limit, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this Rule.

§ 1241.213 Settling the record.

(a) The record upon which the Board's decision will be rendered consists of the documents furnished under § 1241.204 and § 1241.212 to the extent admitted in evidence, and the following items, if any: pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, post-hearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will, at all reasonable times, be available for inspection by the parties at the office of the Board.

(b) Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

§ 1241.214 Discovery—depositions.

(a) *General policy and protective orders*—The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order required to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted*—After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions*—The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) *Use as evidence*—No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the deponent given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions to supplement the record.

(e) *Expenses*—Each party shall bear its own expenses associated with the taking of any deposition.

(f) *Subpoenas*—Where appropriate, a party may request the issuance of a subpoena under the provisions of § 1241.221.

§ 1241.215 Interrogatories to parties, admission of facts, and production and inspection of documents.

After an appeal has been docketed and complaint filed with the Board, a party may serve on the other party: (a) written interrogatories to be answered separately in writing, signed under oath and answered or objected to within 30 days after service; (b) a request for the admission of specified facts and/or the authenticity of any documents, to be answered or objected to within 30 days after service; the factual statements and the authenticity of the documents to be deemed admitted upon failure of a party to respond to the request; and (c) a request for the production, inspection and copying of any documents or objects not privileged, which reasonably may lead to the discovery of admissible evidence, to be answered or objected to within 30 days after serivce. Any discovery engaged in under this Rule shall be subject to the provisions of § 1241.214 with respect to general policy and protective orders, and of § 1241.233 with respect to sanctions.

§ 1241.216 Service of papers other than subpoenas.

Papers shall be served personally or by mail, addressed to the party upon whom service is to be made. Copies of complaints, answers and briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board that a copy has been so furnished. Subpoenas shall be served as provided in § 1241.221.

Hearings

§ 1241.217 Where and when held.

Hearings will be held at such places determined by the Board to best serve the interests of the parties and the Boad. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, § 1241.212 requirements, and other pertinent factors. On request or motion by either party and for good cause, the Board may, in its discretion, adjust the date of a hearing.

§ 1241.218 Notice of hearings.

The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will consider the desires of the parties and the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearings shall be promptly acknowledged by the parties.

§ 1241.219 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in § 1241.211.

§ 1241.220 Hearings: nature, examination of witnesses.

(a) *Nature of hearings*—Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and the Government may offer such evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence or in the sound discretion of the presiding administrative judge. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

(b) *Examination of witnesses*—Witnesses before the Board will be examined orally under oath or affirmation, unless the presiding administrative judge shall otherwise order. If the testimony of a witness is not given under oath, the Board may advise the witness that his statements may be subject to the provisions of Title 18, United States Code, sections 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

§ 1241.221 Subpoenas.

(a) *General*—Upon written request of either party filed with the recorder, or on his own initiative, the administrative judge to whom a case is assigned or who is otherwise designated by the chair may issue a subpoena requiring:

(1) testimony as a deposition—the deposing of a witness in the city or county where he resides or is employed or transacts his business in person, or at another location convenient for him that is specifically determined by the Board;

(2) testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) production of books and papers—in addition to paragraphs (a) (1) or (2) of this section, the production by the witness at the deposition or hearing of books and papers designated in the subpoena.

(b) *Voluntary Cooperation*—Each party is expected (1) to cooperate and make available witnesses and evidence under its control as requested by the other party, without issuance of a subpoena, and (2) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things whenever possible.

(c) *Requests for subpoenas*—

(1) A request for subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought. In its discretion the Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books and papers sought.

(d) *Requests to quash or modify*—Upon written request by the person subpoenaed or by a party, made *within* 10 days after service but in any event not later than the time specified in the supoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form; issuance*—

(1) Every subpoena shall state the name of the Board and the title of the appeal, and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books and papers at a time and place therein specified. In issuing a subpoena to a requesting party, the administrative judge shall sign the subpoena and may, in his discretion, enter the name of the witness and otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) *Service*—

(1) The party requesting issuance of a subpoena shall arrange for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as a sufficient ground for striking the testimony of the witness and the books or papers the witness has produced.

(g) *Contumacy or refusal to obey a subpoena*—In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

§ 1241.222 Copies of papers.

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

§ 1241.223 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be directed by the presiding administrative judge at the conclusion of the hearing.

§ 1241.224 Transcript of proceedings.

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Waiver of transcript may be especially suitable for hearings under § 1241.212–2. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by contract with the reporter.

§ 1241.225 Withdrawal of exhibits.

After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

Representation

§ 1241.226 The Appellant.

An individual appellant may appear before the Board in person, a corporation by one of its officers; and a partnership or joint venture by one of its members; or any of these by an attorney at law duly licensed in any state, commonwealth, territory, the District of Columbia, or in a foreign country. An attorney representing an appellant shall file a written notice of appearance with the Board.

§ 1241.227 The government.

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or appellant's attorney in the form specified by the Board from time to time.

Decisions

§ 1241.228 Decisions.

Decisions of the Board will be made in writing and copies of the decision will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions (except those required for good cause to be held confidential and not cited as precedents) shall be open for public inspection at the offices of the Board. Decisions of the Board will be made solely upon the record, as described in § 1241.213.

Motion for Reconsideration

§ 1241.229 Motion for reconsideration.

A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

Suspensions; Dismissals and Defaults; Remands

§ 1241.230 Suspensions; dismissal without prejudice.

The Board may suspend the proceedings by agreement of counsel for settlement discussions, or for good cause shown. In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

§ 1241.231 Dismissal or default for failure to prosecute or defend.

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to § 1241.233. If good cause is not shown, the Board may take appropriate action.

§ 1241.232 Remand from court.

Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive

and time limitations permit, such orders shall conform to these rules.

Sanctions

§ 1241.233 Sanctions.

If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

Effective Date

§ 1241.234 Effective date.

These rules shall apply (a) mandatorily, to all appeals relating to contracts entered into on or after March 1, 1979, and (b) at the contractor's election, to appeals relating to earlier contracts, with respect to claims pending before the contracting officer on March 1, 1979, or initiated thereafter.

Frederick J. Lees,

Chairperson, NASA Board of Contract Appeals.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 46

[Docket No. RM80-9]

Public Utility Filing Requirement and Requirements for Persons Holding Interlocking Positions; Order Issuing Final Regulations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: This rule implements, in part, section 211 of the Public Utility Regulatory Policies Act of 1978 which created new section 305(c) of the Federal Power Act. Congress authorized the Federal Energy Regulatory Commission to prescribe, in form and manner, a written statement to be filed by any person holding interlocking positions in both a public utility and in any of certain other specified entities. Persons subject to this rule will be required to file such written statement concerning such positions annually. The written statement is due by April 30, 1980.

EFFECTIVE DATE: April 2, 1980.

FOR FURTHER INFORMATION CONTACT: Colette K. Bohatch, Federal Energy Regulatory Commission, Office of the General Counsel, Room 3335, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8608.

April 2, 1980.

I. Introduction

This rule implements, in part, section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA) which amended section 305 of the Federal Power Act (the Act) by adding a new subsection (c). Section 305(c) states two separate requiremtns. One directs any person holding certain executive positions [1] in both a public utility and any one of certain other entities [2] to file with the Commission a written statement regarding such positions. The second requirement directs public utilities to name their twenty largest purchasers who are entities covered by this rule.

The first statutory requirement is set forth in section 305(c)(1) which states that:

> On or before April 30 of each year, any person, (holding certain executive positions with a public utility and any one of a number of other entities identified in section 305(c)(2)) * * * shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person.

This second statutory requirement is set forth in section 305(c)(2)(F) which states that:

> On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of (its twenty largest purchasers of electric energy within the meaning of section 305(c)(2)(D)) * * * for purposes of any filing under * * * (section 305(c)(1)).

Proposed regulations concerning both of these statutory requirements were issued by the Commission on November 14, 1979.[3] A five week comment period ended on December 21, 1979. For the purpose of providing the public utilities sufficient time to publish the purchaser lists by January 31, 1980, the Commission decided to implement that statutory requirement as soon as possible, leaving implementation of the requirement concerning the filing of the written statement regarding interlocking positions to a later order.

Accordingly, the Commission issued a final rule on January 11, 1980 in Order No. 67 implementing section 305(c)(2)(F) by directing public utilities to file with the Commission, by January 31, 1980, lists of their largest purchasers.[4] The balance of the regulations relating to the filing requirement for persons holding certain executive positions are being finalized herein.

II. Background

Interlocking positions involving public utilities have been subject to regulation by the Federal Energy Regulatory Commission (Commission) and its predecessor pursuant to section 305 of the Act. Section 305(b) [5] requires that any person desiring to hold the positions of officer and director with a public utility and any one of other specified entities must receive prior authorization from the Commission. Section 305(b) covers interlocking positions between public utilities, and between a public utility and any of the following:

> Any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or * * * any company supplying electrical equipment to such public utility.

Section 305(c) [6] imposes a filing requirement upon persons who hold certain executive positions with public utilities and with other entities, including persons who may have been authorized under section 305(b) to hold interlocking positions. Under section 305(c), such person must also file an annual written statement concerning those positions. The entities other than public utilities covered by section 305(c) are the following:

(1) Any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility *(parallel provision in section 305(b));*

(2) Any investment bank, bank holding company, foreign bank or subsidary thereof doing business in the United States, insurance comapny, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

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[1] The term "executive positions" as used in these regulations means any partner, appointee, representative, director, chief executive officer, president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, or any position for which a person performs a similar executive duty or function. The term "interlocking positions" is used to refer to executive positions held by a person in both a public utility and one of the other section 305(c) entities.

[2] The term "entities" includes the category of purchasers identified in accordance with Order No. 67, see note 4 and accompanying text, as the largest purchasers of each public utility in terms of kilowatt-hours purchased at retail for each year of a three year period.

[3] 44 FR 66205 (November 19, 1979).

[4] 45 FR 3569 (January 18, 1980). On January 21, and February 4, 1980, notices were issued correcting minor technical errors in § 46.2 (a) and (c) and § 46.3(a). 45 FR 6377; 45 FR 9729.

[5] Section 305(b) has been implemented by Part 45 of the Commission's Regulations.

[6] Section 305(c) is being implemented by this final rule to be included in Part 46 of the Commission's Regulations.

(3) Any company, firm, or organization which produces or supplies electric equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility *(parallel provision in section 305(b) as to any company supplying electrical equipment to the interlocked utility);*

(4) Any entity specified as one of a utility's twenty largest retail purchasers pursuant to Order No. 67; and

(5) Any company, firm, or organization which is controlled by any company, firm, or organization listed above.

III. Summary of Comments and Final Rule

A. Comparison with Regulations in Part 45

Forty-three written comments were received by the Commission in this docket. Many of the commenters requested that the Commission reconcile certain differences between the proposed rule concerning reporting of interlooking positions and the existing regulations in Part 45.

One difference between the proposed regulations for Part 46 and those in Part 45 is the definition of "electrical equipment." Part 45 does not define "electrical equipment." Edison Electric Institute (EEI) treated this issue at length and concluded that any definition adopted in Part 46 will alter the scope of the term "electrical equipment" which has been developed through case law construing Part 45.

The Commission has chosen to define "electrical equipment" in Part 46 in order to provide necessary guidance but intends to institute a rulemaking to amend Part 45 to add an appropriate definition for "electrical equipment" for that part. The Commission will at that time request the public to comment on whether such conformity would be in the public interest.

A second difference between Part 45 and Part 46 stems from a difference between sections 305(b) and 305(c) regarding the scope of the term "public utility." Section 305(b) does not explicitly define "public utility," but the applicable definition appearing in section 201(e) of the Act states, in pertinent part:

> The term "public utility" when used in this Part (Part II) or in the Part next following means any persons who owns or operates facilities subject to the jurisdiction of the Commission under this Part * * *

Section 305(c), in contrast, explicitly states that, for purposes of that section, "public utility" includes "any company which is part of a holding company system which includes a registered holding company unless no company in such system is an electric utility" but does not otherwise define that term.

A comprehensive definition for "public utility" in Part 46 is crucial for determining which entities are covered and who may have to file a written statement. The final regulations, therefore, define "public utility" in § 46.2(a) [7] as follows:

> "Public utility" has the same meaning as in section 201(e) of the Federal Power Act and further includes any company which is part of a holding company system which includes a registered holding company unless no company in such system is an electric utility within the meaning of section 3 of the Federal Power Act. Such term does not include any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture or any other entities covered in section 201(f) of the Federal Power Act.

Certain organizations are excluded from this definition because they have been excluded from the Commission's jurisdiction by statute. Such organizations include political subdivisions of a State, e.g., irrigation districts, drainage districts, and municipalities. Certain electric cooperatives approved by the Rural Electrification Administration (REA) have also been excluded by Commission decision.[8] The REA, which finances these cooperatives, also exercises extensive regulatory authority over their development and operation. In the past the Commission has not exercised jurisdiction over such REA approved cooperatives. We see no reason to change such policy here. In order to make this clear, the Commission has also amended two definitions to explicitly exclude such REA cooperatives, namely, "purchaser" in § 46.2(c), and "entity" in § 46.2(e).

A final difference between Parts 45 and 46 involves the categories of covered executive positions. The executive positions subject to Part 45 are defined for all covered entities as follows:

> The positions subject to this part shall include those of any person elected or appointed to perform the duties or functions ordinarily performed by a president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, director or *partner*, or to perform any other similar executive duties or functions, in any corporation within the purview of section 305(b) of the act (emphasis added).

Part 46 uses similar language, excluding the term "partner," to define the executive positions applicable to public utilities but adds the terms "partner, appointee, or representative" to define the positions applicable to all other covered entities. The addition of these terms is supported by the statute. Section 305(c) explicitly uses "partner, appointee, or representative" in describing positions applicable to only certain covered entities while section 305(b) does not use these terms. Therefore, the Commission does not believe conformity of Part 46 to Part 45 in this regard is warranted.

B. General Rule—Definitions

Nature and Degree of Control. In the Notice of Proposed Rulemaking, the Commission requested that the public recommend a quantitative definition for "control" which, as proposed, was defined only by qualitative standards. Most commenters suggested language from various other Federal statutes which define "control."

Sullivan & Cromwell, Duke Power Company, Troutman, Sanders, Lockerman & Ashmore, and Central Illinois Light Company referred specifically to the following statutes:

(1) The Investment Company Act of 1940, under which ownership of 25 percent of the voting securities of a company creates a presumption of control;[9]

(2) The Bank Holding Company Act of 1956, under which ownership, control, or power to vote 25 percent of voting securities raises a rebuttable presumption of control, while ownership of 5 percent raises a rebuttable presumption of noncontrol;[10] and

(3) The Public Utility Holding Company Act of 1935, which establishes a presumption of control with ownership of 10 percent of voting stock.[11]

Ohio Edison Company also referred to the 25 percent ownership test of the Investment Company Holding Act of 1940. Dayton Power & Light Company stated, without reference to any statute, that a 10 percent ownership test is indicative of true control. In sharp contrast, Public Service Electric & Gas Company, Newark, New Jersey (Public Service—New Jersey) suggested an 80 percent ownership test based on the

[7] This definition is set forth in Order No. 67, 45 FR 3568, 3569 (January 18, 1980). The phrase "which includes a registered holding company" was inadvertently omitted from this definition and was subsequently added by an errata notice which was issued on February 4, 1980. 45 FR 9729 (February 13, 1980).

[8] *Dairyland Power Cooperative*, 37 FPC 12 (1967); *Salt River Project Agricultural Improvement and Power District* v. *Colorado Ute Electric Assoc.*, 37 FPC 68 (1967), *aff'd sub nom. Salt River Project Agricultural Improvement and Power District* v. *FPC*, 391 F.2d 470 (D.C. Cir. 1968).

[9] 15 U.S.C. 80a-2.

[10] 12 U.S.C. 1841.

[11] 15 U.S.C. 796.

provisions in the Internal Revenue Code for tax-free organizations.[12]

Using percentage of ownership or power to vote securities as the measure of control makes it difficult to set a limit applicable to large corporations as well as small. A control test which not only uses a percentage limit but also a rebuttable presumption provides some degree of certainty for the definition of "control" while incorporating flexibility to meet diverse corporate ownership circumstances.

The Commission has concluded, therefore, that the following test is appropriate for the purposes of section 305(c): Ownership or power to vote, directly or indirectly, 10 percent or more of the voting securities of any entity raises a rebuttable presumption of control. If a company, however, owns or has power to vote less than 10 percent of the voting securities of another company, there is no presumption of non-control. The Commission recognizes that control can exist when ownership of voting securities is less than 10 percent but under this circumstance there must be a demonstration that control does exist.

Parent and Subsidiary Question. Gulf Power Company, Ohio Edison Company, Consolidated Edison Company of New York, Sullivan & Cromwell, Troutman, Sanders, Lockerman & Ashmore, and Central Illinois Light Company recommended deleting the phrase "any parent and subsidiary of any corporation" from the definition of "business entity." They argued that, as proposed, this definition exceeds the scope of section 305(c)(2)(F) which defines as a covered entity "any company, firm or organization which is *controlled by* any company, firm or organization (identified in section 305(c)(2))" (emphasis added). They contended that the phrase "controlled by" does not cover a parent of any company, firm, or organization identified in section 305(c)(2).

Regarding subsidiaries, they further stated that the concept of "controlled by" is already included in § 46.4(f) (Covered entities) of the proposed rule and therefore, as to "subsidiary," the definition of "business entity" [13] is redundant.

The Commission has reviewed the statute in light of these comments and, pursuant to its authority under section 305(c), has concluded that parents of entities described in section 305(c) are not covered but that subsidiaries are. Therefore, the Commission has modified the final rule to exclude parents of these entities from coverage of these regulations. The Commission, however, believes that it has adequate authority under other provisions of the law to ask for the filing of a written statement from parent companies and makes no judgment at this time as to whether or not it should exercise its authority.

Entity. Niagara-Mohawk Power Corporation (Niagara-Mohawk) suggested expanding the exemption for municipalities in the definition of "entity" to include Federal, State and local governmental agencies. Niagara-Mohawk argued that many public agencies authorized by Federal or State law rely for leadership upon community leaders who are appointed to such positions and who serve with little or no compensation from these public agencies. Because these people serve in such positions as a public service to their communities, Niagara-Mohawk contended that there is little likelihood of their exercising harmful influence in such positions and that, in any event, there are other, more appropriate checks on the local level for any possible problems.

The Commission has adopted this suggestion because it believes that the statutory purpose of monitoring certain interlocking positions will not be frustrated by excluding these governmental agencies from the definition of "entity."

Electrical Equipment. The definition of "electrical equipment" was the subject of many comments which collectively suggested that the definition was overly broad and should either be narrowed or deleted altogether. They stated that this definition encompasses equipment which has a variety of industrial and non-industrial uses which do not always serve an electrical purpose and concluded that the definition unjustifiably expands the Commission's jurisdiction by broadening the filing requirements to include companies which do not supply electrical equipment.

Various suggestions were offered for modifying the proposed definition. Southern California Edison Company (Southern California), Potomac Electric Power Company, and Carolina Power & Light Company suggested eliminating the term "component" from the definition. Duke Power Company and Southern California commented further that a supplier of small components may not know how the components are used by its utility customers to determine if the components are "electrical equipment."

Sullivan & Cromwell, Detroit Edison, Southern California, and Central Illinois Light Company recommended adding language to emphasize design, purpose, or function of the equipment. Public Service-New Jersey suggested that "electrical equipment" should be limited to equipment manufactured solely for the use of an electric utility (Consolidated Edison Company of New York suggested the terms "primary" and "directly"; the law firm of Leva, Hawes, Symington, Martin & Oppenhiemer suggested the use of the terms "primary" and "customary"). Alabama Power suggested covering only major electrical equipment traditionally used by utilities and designed for a specific utility customer.

Public Service-New Jersey, Cambridge Electric Light Company, and EEI suggested substituting pertinent categories from the Standard Industrial Classification System developed by the Department of Commerce [14] instead of the categories from the Commission's Uniform System of Accounts which are included as a footnote to the definition.

Further commenting on the breadth of the definition, Public Service-New Jersey and DeBevoise & Liberman argued that the definition was not consistent with portions of the legislative history for section 305(b) and pertinent case law. Reid & Priest and Steel, Hector & Davis discussed narrowing the scope of the definition of "electrical equipment" in view of the statutory purpose of section 305(b) to eliminate the evils of interlocking business relationships.

Lastly, a *de minimis* test was proposed by Steel, Hector & Davis, San Diego Gas & Electric Company, Central Illinois Light Company, and EEI that required a minimum of electrical equipment transactions be completed between the utility and a supplier before such supplier would be covered by the rule.

In view of these suggestions, the Commission has decided to narrow the scope of the definition of "electrical equipment." The revised definition set forth in § 46.2(f) states:

> "Electrical equipment" means any apparatus, device, integral component, or integral part used in an activity which is electrically, electronically, mechanically, or by legal prescription necessary to the process of generation, transmission, or distribution of electric energy.

This revised definition also includes, as a guide only, a footnote reference to various accounts in the Commission's Uniform System of Accounts even though certain items can be found in the

[12] 26 U.S.C. 368.

[13] The word "business" was deleted from the term "business entity" in accordance with several comments as it is an unnecessary qualification for "entity."

[14] 13 U.S.C. 224.

accounts which are clearly not "electrical equipment" within this definition. For example, a master clock, although electrically operated, is not used in an activity which is "necessary to the process of generation, transmission, or distribution of electric energy." [15] For this reason, the accounts merely serve as a guide.

The Commission believes that the revised definition of "electrical equipment" also eliminates the small component problem raised by Duke Power Company because equipment covered by the rule must be *necessary* to the process of generating, transmitting, or distributing electric energy. "Nuts and bolts" purchased off the shelf are not intended to be covered by the revised definition of "electrical equipment."

To further deal with the concerns regarding the scope of the rule expressed by the commenters, the Commission has defined the term "produces or supplies" in section 305(c)(2)(C) which covers "any company, firm or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility." The new definition set forth in § 46.2(g) states that:

> "Produces or supplies" means any transaction including a sale, lease, sale-leaseback, consignment, or any other transaction in which an entity provides electrical equipment, coal, natural gas, oil, nuclear fuel, or other fuel to any public utility either directly or through an entity controlled by such entity.[16]

For example, such a transaction not made *directly* between the utility and the supplier or an entity which controls the supplier is not covered by "produces or supplies." Consequently, an entity engaging in such a transaction would not be a covered entity under § 46.5(c) which incorporates the above-quoted language of section 305(c)(2)(C). Of course, under § 46.5(f), if an entity produced electrical equipment, coal, natural gas, oil, nuclear fuel, or other fuel but supplied it through its parent, any interlock between the subsidiary and a public utility supplied by such subsidiary would have to be reported because the parent would be a qualifying entity under § 46.5(c).

With regard to the *de minimis* test, the Commission considered the adoption of such a test. The Commission recognizes, however, that application of a *de minimis* test would be inconsistent with our recent order in *Charles T. Fisher, III*, Docket No. ID–1758 issued October 25, 1979.

In that case, Mr. Fisher applied for an approval to hold interlocking positions with a public utility and with a supplier of electrical equipment pursuant to section 305(b) of the Act. Mr. Fisher argued that because the supplier's sales to the interlocked utility were small, the supplier should not be found to qualify as a supplier of electrical equipment within the meaning of section 305(b). Noting that this section refers merely to sales of electrical equipment without specifying any quantity threshold, the Commission rejected the argument that a *de minimis* test could be applied to determine whether it had the jurisdictional obligation to authorize or reject this kind of interlocking position. However, the Commission did consider the volume of sales in determining whether, on the merits, his application should be approved.

Similarly, we find that section 305(c)(2)(C) contains no minimum quantity threshold for electrical equipment supply. Moreover, section 305(c), unlike section 305(b), bases jurisdiction on the *production or supply* of electrical equipment for the use of any public utility, not simply on sales to the interlocked public utility. Here as in *Fisher*, we require compliance with the statutory requirements and make no exclusion based on the amount of sales.

The suggestion that the Standard Industrial Classification System be substituted for the Uniform System of Accounts must be rejected. There is no compelling reason advanced by the commenters for this substitution, particularly when the latter system was developed by the Commission for use in its daily work. Since the footnote reference to the Commission's accounts system serves as only a guide, there is even less reason to make the suggested substitution.

Appointee and Representative. In the proposed rule, the Commission did not define the statutory terms "appointee" and "representative" but solicited comments on their scope with the intention of incorporating pertinent definitions in the final rule. Many commenters [17] suggested that these terms be limited to cover only persons having the ability to contractually bind or to serve a management function for the subject entity. Many of the commenters recommended excluding attorneys, accountants, and consultants from the scope of the rule. Based upon the issues raised in these comments, the Commission has added the following definitions to the rule in § 46.2 (h) and (i), respectively:

> "Appointee" means any person appointed on a temporary or permanent basis to perform any duties or functions as described in § 46.4(a).
>
> "Representative" means any person empowered, through oral or written agreement, to transact business on behalf of an entity and any person who serves as advisor regarding policy or management decisions of the entity. The term does not include attorneys, accountants, architects, or any other persons who render a professional service on a fee basis.

An exclusion has been provided in the definition of "representative" for attorneys, accountants, architects, and other persons who render a professional service on a fee basis. Many commenters suggested that the Commission incorporate an exclusion for such persons who render advice to clients but who do so without having power over policy or management decisions of their clients. Consultants who render their service on a fee basis would also be excluded.

The Commission believes that consultants, particularly if they are former officers or directors of a company, may well be in a position which permits them to continue to influence the decisions of that company. Consultants, from time to time, may direct the policy or managment of a company without being visible policy makers. If they do so and are not paid on a fee basis they would be covered by this rule.

C. General Rule

The word "executive" has been inserted in § 46.4(a) (General rule) preceding the phrase "duties or functions" in accordance with a suggestion by Gulf Power Company. This addition emphasizes the types of functions and the levels of management deserving scrutiny under this rule. When a person is responsible for such executive duties or functions in a public utility and any covered entity, the opportunities to transmit significant information from one company to the other and thus to influence the decisions of another company are increased.

[15] Examples of other items in the referenced accounts which do not qualify as "electrical equipment" are fire alarms, atmospheric measuring devices, and batteries.

[16] Note that this definition would bring within the coverage of this rule, a bank which leases nuclear fuel to a public utility. A person holding interlocking positions with such bank and such utility would have to comply with this rule.

[17] Gulf Power Company, Duke Power Company, Consolidated Edison Company of New York, Cincinnati Gas & Electric Company, Public Service Middle South Utilities, Sullivan & Cromwell, Central Illinois Light Company, Dayton Power & Light Company, EEI, and Alabama Power. Detroit Edison also suggested that each entity refer to its by-laws for a definition of "officer" or "director" eliminating the need for related definitions in the rule.

D. Filing Requirements—Compensation

As proposed, the regulations would have required that a person holding interlocking positions must report the compensation received from the public utility and from the other interlocked entity, if the compensation from either is greater than $10,000. The Commission requested comments regarding the $10,000 limit.

Rochester Gas & Electric Corporation, Baltimore Gas & Electric Company, Central Illinois Light Company, Potomac Electric Power Company, and Florida Power & Light Company questioned, as a threshold matter, whether the Commission has authority to inquire as to compensation that a person filing under the rule receives from any section 305(c) entity or should inquire of such a confidential matter when not explicitly mandated to do so.

Hy-Vee Food Stores, San Diego Gas & Electric Company, Iowa Southern Utilities Company (EEI concurred in Iowa's comment), Florida Power & Light Company, and Baltimore Gas & Electric Company argued against disclosure of compensation on other grounds; they contended that the Commission should not require such disclosure for any entity which is beyond the traditional regulatory jurisdiction of the Commission. They also alleged that it would be harsh for persons holding executive positions with an entity which is not publicly held or with an entity which is their principal employer to disclose their salaries. The result of such a required disclosure, these commenters stated, would be to discourage some experienced business leaders from accepting executive positions with utilities which could benefit in a positive way from their experience.[18]

In view of these comments, the Commission is persuaded, for the time being, to delete the requirement that interest and compensation be disclosed under this final rule. However, the Commission has the discretion to inquire at a later time about interest and compensation. Although compensation received by the person filing may be significant in appraising the nature of the business relationship between the interlocked entities, the Commission does not believe that this information should be required as part of the routine filing. In the event the Commission finds that certain interlocking positions should be investigated, it may at that time take appropriate steps to obtain disclosure of interest or compensation.

[18] Comments filed by Mr. C. Malcolm Davis discussed the problem of lack of experienced persons willing to serve on the boards of utilities.

In view of the above discussion, the Commission further believes that there is no reason to exclude, as suggested by commenters, privately held entities or entities which are the principal employers of persons holding interlocking positions.

In view of the decision to delete the compensation disclosure requirement the remaining comments regarding the $10,000 floor, specific kinds of compensation, and the nature of the interest in the covered entities need not be addressed.

E. Filing Requirements: Other Information

The proposed rule required that the following information be reported: the name and business address of the person reporting, the duties for the executive positions held, the nature of the business relationship between the public utility and the other interlocked entity, and the nature and an indication of the level of interest in and compensation received from both entities.

Several commenters suggested that the content of the statement as proposed be substantially reduced to require merely identification of the person holding the interlocking positions and the interlocking entities. American Public Power Association, in contrast, suggested that additional information be reported, *i.e.*, specific transactions, if any, between the person filing the statement and the interlocked entities. Cincinnati Gas & Electric Company argued that material business transactions between the entities be disclosed.

In this final rule, the Commission has modified the contents of the written statement. This modification applies not only to the disclosure of the amount of the interest and compensation but also to the disclosure of the nature of any interest in or compensation received from the interlocked entities.

Other changes were made so that the final rule now requires the following information: Name and business address of the person filing; identification of the public utilities and other covered entities involved; and identification of the interlock. In addition, the following information is to be provided if the interlock includes an entity producing or supplying electrical equipment for the use of the interlocked public utility:

(1) The aggregate amount of revenues received by such entity from producing or supplying electrical equipment to the interlocked public utility in the subject calendar year (§ 46.6(d)) in $100,000 increments; and

(2) The nature of the business relationship between the interlocked entities.

By this modification, the Commission decided to focus the filing requirement more directly on the relationship between the interlocked entities rather than on the person holding the interlocking positions.

The Commission believes that it has the discretion under section 305(c) as well as under its general information gathering authorities under the Act to inquire further, as some commenters suggested, regarding the interlocked entities and the person filing the statement. However, the Commission does not choose, at this time, to exercise its discretion to the fullest extent possible.

Regarding the above-mentioned suggestion by American Public Power Association to inquire about transactions between the person holding the interlocking positions and the interlocked entities, the Commission believes this information could be significant in evaluating the nature of the relationship between interlocked entities. Rather than require this information *ab initio*, the Commission has decided to make this inquiry on a case-by-case basis if circumstances surrounding certain interlocked entities indicate that closer scrutiny is needed.

Requiring this information, although of interest, would not be consistent with the objective of the Commission in promulgating these rules; namely, to require only the information necessary to adequately discharge its duties under section 305(c). If information disclosed in the statement indicates that further investigation is necessary, the Commission is free to inquire as to specific transactions between such person and either or both of the interlocked entities. At the outset, however, the Commission is not convinced that this additional inquiry is necessary.

Lastly, the rule has been revised to require the following additional information where pertinent: the docket number and the date the interlocking positions covered under Part 46 were authorized by the Commission under Part 45. This information merely serves as a cross-reference to the section 305(b) authorizations.

V. Effective Date

There is a statutory deadline of April 30, 1980, for compliance with these regulations. The Commission therefore finds good cause under 5 U.S.C. 553(d) to make the rules promulgated in this order effective immediately.

These rules have been promulgated under the Federal Power Act, as amended by PURPA, and, therefore, a right to rehearing exists under section 313 of the Federal Power Act.

(Federal Power Act, as amended, (16 U.S.C. 792–828c); Public Utility Regulatory Policies Act of 1978, (16 U.S.C. 2601–2645); Department of Energy Organization Act, (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 142 (1978).)

In consideration of the foregoing, the Commission amends Part 46 to Subchapter B, Chapter I, Title 18 of the Code of Federal Regulations, as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 46 is amended by revising the title to read:

PART 46—PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

2. Part 46 is further amended in the table of contents and in the text of the regulations, to read as follows:

Sec.

46.1 Purpose.
46.2 Definitions.
46.3 Purchaser list.
46.4 General rule.
46.5 Covered entities.
46.6 Contents of the written statement and procedures for filing.

Authority: Federal Power Act, as amended, (16 U.S.C. 792–828c); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Department of Energy Organization Act, (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 142 (1978).

§ 46.1 Purpose.

* * * * *

§ 46.2 Definitions.

For the purpose of this part:

(a) "Public utility" has the same meaning as in section 201(e) of the Federal Power Act and further includes any company which is part of a holding company system which includes a registered holding company unless no company in such system is an electric utility within the meaning of section 3 of the Federal Power Act. Such term does not include any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture or any other entities covered in section 201(f) of the Federal Power Act.

(b) The following terms have the same meaning as in the Public Utility Holding Company Act of 1935:

(1) Holding company system; and

(2) Registered holding company.

(c) "Purchaser" means any individual or corporation within the meaning of section 3 of the Federal Power Act who purchases electric energy from a public utility. Such term does not include the United States or any agency or instrumentality of the United States or any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture.

(d) "Control" and "controlled" mean the possession, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means. A rebuttable presumption that control exists arises from the ownership or the power to vote, directly or indirectly, ten percent (10%) or more of the voting securities of such entity.

(e) "Entity" means any firm, company, or organization including any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. Such term does not include "municipality" as defined in section 3 of the Federal Power Act and does not include any Federal, State, or local government agencies or any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture.

(f) "Electrical equipment" means any apparatus, device, integral component, or integral part used in an activity which is electrically, electronically, mechanically, or by legal prescription necessary to the process of generation, transmission, or distribution of electric energy.[1]

[1] Guidance in applying the definition of "electrical equipment" may be obtained by examining the items within the following accounts described in Part 101, Title 18 of the Code of Federal Regulations: Boiler/Reactor plant equipment (Accounts 312 and 322); Engines and engine driven generators (313); Turbogenerator units (314 and 323); Accessory electrical equipment (315, 324, 334 and 345); Miscellaneous power plant equipment (316, 325, 335 and 346); Water wheels, turbines and generators (333); Fuel holders, producers, and accessories (342); Prime movers (343); Generators (344); Station equipment (353 and 362); Poles, towers and fixtures (354, 355 and 364); Overhead conductors and devices (356 and 365); Underground conduit (357 and 366); Underground conductors and devices (358 and 367); Storage battery equipment (363); Line transformers (368); Services (369); Meters (370); Installation on customers' premises (371); Street lighting and signal systems (373); Leased property on customers' premises (372); and Communication equipment (397). Excepted from these accounts, are vehicles, structures, foundations, settings, and services.

(g) "Produces or supplies" means any transaction including a sale, lease, sale-leaseback, consignment, or any other transaction in which an entity provides electrical equipment, coal, natural gas, oil, nuclear fuel, or other fuel to any public utility either directly or through an entity controlled by such entity.

(h) "Appointee" means any person appointed on a temporary or permanent basis to perform any duties or functions described in § 46.4(a).

(i) "Representative" means any person empowered, through oral or written agreement, to transact business on behalf of an entity and any person who serves as an advisor regarding policy or management decisions of the entity. The term does not include attorneys, accountants, architects, or any other persons who render a professional service on a fee basis.

§ 46.3 Purchaser list.

* * * * *

§ 46.4 General rule.

A person must file a written statement in accordance with § 46.6 with the Office of Secretary of the Commission if such person:

(a) Serves for a public utility in any of the following positions: A director or a chief executive officer, president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, or any other position in which such person performs similar executive duties or functions for such public utility; and

(b) Serves for any entity described in § 46.5 in any of the positions described in paragraph (a) of this section or is a partner, appointee, or representative of such entity.

§ 46.5 Covered entities.

Entities to which the general rule in § 46.4(b) applies are the following:

(a) Any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(b) Any entity which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

(c) Any entity which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(d) Any entity specified in § 46.3;

(e) Any entity referred to in section 305(b) of the Federal Power Act; and

(f) Any entity which is controlled by any entity referred to in this section.

§ 46.6 Contents of the written statement and procedures for filing.

Each person required to file a written statement under the general rule in § 46.4 shall comply with the following requirements:

(a) Each person shall provide the following information: full name and business address; identification of the public utilities and the covered entities in which such person holds executive positions described in § 46.4; and identification of the interlock described in § 46.4;

(b) If the interlock is between a public utility and an entity described in § 46.5(c), which produces or supplies electrical equipment for use of such public utility, such person shall provide the following information:

(1) The aggregate amount of revenues received by such entity from producing or supplying electrical equipment to such public utility in the calendar year specified in paragraph (d) of this section, rounded up to the nearest $100,000; and

(2) The nature of the business relationship between such public utility and such entity.

(c) If the person is authorized by the Commission to hold the positions of officer or director in accordance with Part 45, such person shall identify the authorization by docket number and shall give the date of authorization.

(d)(1) Each person shall file an original and two copies of such written statement with the Office of Secretary of the Commission on or before April 30 of each year immediately following the calendar year during any portion of which such person held a position described in § 46.4. The original of such statement shall be dated, signed by such person, and verified under oath in accordance with § 131.60 of this chapter. Each copy shall bear the date that appeared on the original; the signature may be stamped or typed on the copy, and the notarial seal may be omitted.

(2) Such statement shall be available to the public during regular business hours through the Commission's Office of Public Information and shall be made publicly available through the principal business offices of the public utility and any entity to which it applies on or before April 30 of the year the statement was filed with the Commission.

[FR Doc. 80-10419 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 803 and 888

[Docket No. R-80-670]

Sections 8 and 23 Housing Assistance Payments Program—Amendment of Fair Market Rent Schedules, Existing Housing; Correction

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Correction of final rule.

SUMMARY: In FR Doc. R-79-670 appearing at page 59112 in the Federal Register of Friday, October 12, 1979, HUD amended, for selected housing market areas, the schedules that set forth the Fair Market Rents for the Section 23 and Section 8 Existing Housing Assistance Payments Programs (pages 59113 through 59150). The amended schedules contained several errors. For twenty-one housing market areas, the proposed Fair Market Rents were republished instead of the revised rents. In thirteen market areas, there were mistakes in the dollar amounts. In certain areas, where HUD revised the rents for 3 and 4 bedroom units based on local comments, the rents for 5 or more bedroom units did not reflect the variation betweeen actual market rents for 4 and 5 or more bedroom units. This occurred because the 5 or more bedroom rents were computed by taking a percentage of the rent for 2 bedroom units which were not changed. These errors, applicable to selected housing market areas, are corrected by revision of Title 24, Part 803, Schedule B, and Part 888, Schedule B, as set forth below.

EFFECTIVE DATE: November 1, 1979, retroactive to March 29, 1979 for annual rent adjustments and PHA administrative fees.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Director, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410, 202-755-4977. This is not a toll-free number.

Accordingly, Title 24, Part 803, Schedule B, and Part 888, Schedule B, are revised as set forth below.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); sec. 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1408); sec. 10(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1410(b)); and sec. 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1421b)

Issued at Washington, D.C., March 28, 1980.

Clyde McHenry,

Acting Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

PART 803—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART:YORK STATE:ME	171	193	228	261	288
BUFFALO, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY:ESSEX STATE:NY	153	176	203	232	256
COUNTY:FRANKLIN STATE:NY	135	159	182	202	222
COUNTY:JEFFERSON STATE:NY	142	164	195	211	233
COUNTY:LEWIS STATE:NY	135	159	182	202	222
COUNTY:ST LAWRENCE STATE:NY	144	168	200	222	246
LOUISVILLE, KENTUCKY AREA OFFICE					
SMSA: EVANSVILLE, IN-KY					
COUNTY:HENDERSON STATE:KY	180	200	240	265	295
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: EVANSVILLE, IN-KY					
COUNTY:GIBSON STATE:IN	180	200	240	265	295
COUNTY:POSEY STATE:IN	180	200	240	265	295
COUNTY:VANDERBURGH STATE:IN	180	200	240	265	295
COUNTY:WARRICK STATE:IN	180	200	240	265	295
ST. LOUIS, MISSOURI AREA OFFICE					
SMSA: COLUMBIA, MO					
COUNTY: BOONE STATE: MO	160	194	228	262	296
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:CALDWELL STATE:MO	133	162	190	219	249
COUNTY:DAVIESS STATE:MO	133	162	190	219	249
COUNTY:GRUNDY STATE:MO	133	162	190	219	249
COUNTY:HARRISON STATE:MO	133	162	190	219	249
COUNTY:LINN STATE:MO	133	162	190	219	249
COUNTY:LIVINGSTON STATE:MO	133	162	190	219	249
COUNTY:MERCER STATE:MO	133	162	190	219	249
COUNTY:PUTNAM STATE:MO	133	162	190	219	249
COUNTY:SULLIVAN STATE:MO	133	162	190	219	249

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), NOVEMBER 15, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
SMSA: SIOUX CITY, IA-NE					
COUNTY:WOODBURY STATE:IA	160	206	255	296	328
NON SMSA					
COUNTY:AUDUBON STATE:IA	137	166	196	225	255
COUNTY:CARROLL STATE:IA	137	166	196	225	255
COUNTY:CRAWFORD STATE:IA	137	166	196	225	255
COUNTY:GREENE STATE:IA	137	166	196	225	255
COUNTY:GUTHRIE STATE:IA	137	166	196	225	255
COUNTY:MARSHALL STATE:IA	142	173	204	234	265
COUNTY:SAC STATE:IA	137	166	196	225	255
COUNTY:STORY STATE:IA	155	179	216	242	265
SMSA: SIOUX CITY, IA-NE					
COUNTY:DAKOTA STATE:NE	160	206	255	296	328
NON SMSA					
COUNTY:ADAMS STATE:NE	130	175	227	286	315
DENVER, COLORADO REGIONAL:AREA OFFICE					
SMSA: FORT COLLINS, CO					
COUNTY:LARIMER STATE:CO	168	204	240	276	312
SMSA: BILLINGS, MT					
COUNTY:YELLOWSTONE STATE:MT	188	229	269	309	350
SMSA: GREAT FALLS, MT					
COUNTY:CASCADE STATE:MT	184	224	263	314	342
SMSA: RAPID CITY,S.D.					
COUNTY:MEADE STATE:SD	170	207	243	279	316
COUNTY:PENNINGTON STATE:SD	170	207	243	279	316
SMSA: SIOUX FALLS, SD					
COUNTY:MINNEHAHA STATE:SD	179	217	256	294	332
HONOLULU, HAWAII AREA OFFICE					
SMSA: HONOLULU, HI					
COUNTY:HONOLULU STATE:HI	275	331	394	464	517
LOS ANGELES, CALIFORNIA AREA OFFICE					
NON SMSA					
COUNTY:IMPERIAL STATE:CA	188	228	296	340	367

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), NOVEMBER 15, 1979

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM— FAIR RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

CALCULATION OF FAIR MARKET RENTS FOR FIVE-OR MORE-BEDROOM UNITS, SELECTED FAIR MARKET RENT AREAS. FOR THE FMR AREAS LISTED BELOW, THE FMRs FOR FIVE-OR MORE-BEDROOM UNITS SHALL BE CALCULATED AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR. LIKEWISE, THE FMRs FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGES USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

JACKSON, MISSISSIPPI AREA OFFICE

NON SMSA COUNTY: LOWNDES, MS

LOS ANGELES, CALIFORNIA AREA OFFICE

SMSA: BAKERSFIELD, CA
COUNTY: KERN

SMSA: LOS ANGELES - LONG BEACH, CA
COUNTY: LOS ANGELES

SMSA: RIVERSIDE - SAN BERNARDINO - ONTARIO, CA
COUNTY: RIVERSIDE
COUNTY: BERNARDINO

SMSA: ANAHEIM - SANTA ANA - GARDEN GROVE, CA
COUNTY: ORANGE

SAN FRANCISCO, CALIFORNIA AREA OFFICE

SMSA: MODESTO, CA
COUNTY: STANISLAUS

NON SMSA COUNTY: MERCED, CA

NON SMSA COUNTY: TULARE, CA

NON SMSA COUNTY: PLUMAS, CA

NON SMSA COUNTY: SHASTA, CA

NON SMSA COUNTY: SUTTER, CA

SMSA: SALINAS - SEASIDE MONTEREY, CA
COUNTY: MONTEREY

PREPARED BY HUD - EMAD (CO), NOVEMBER 15, 1979

SAN FRANCISCO, CALIFORNIA AREA OFFICE

SMSA: SAN FRANCISCO - OAKLAND, CA
COUNTY: ALAMEDA
COUNTY: CONTRA COSTA
COUNTY: MARIN
COUNTY: SAN FRANCISCO
COUNTY: MATEO

SMSA: SANTA CRUZ, CA
COUNTY: SANTA CRUZ

SMSA: SANTA ROSA, CA
COUNTY: SONOMA

SMSA: VALLEJO-FAIRFIELD-NAPA, CA
COUNTY: NAPA
COUNTY: SOLANO

PORTLAND, OREGON AREA OFFICE

SMSA: EUGENE-SPRINGFIELD, OR
COUNTY: LANE

NON SMSA COUNTY: YAMHILL, OR

SEATTLE, WASHINGTON AREA OFFICE

NON SMSA COUNTY: COWLITZ, WA

NON SMSA COUNTY: KITSAP, WA

NON SMSA COUNTY: WHATCOM, WA

NON SMSA COUNTY: WHITMAN, WA

PREPARED BY HUD - EMAD (CO), NOVEMBER 15, 1979

[FR Doc. 80-10370 Filed 4-4-80; 8:45 am]
BILLING CODE 4210-01-C

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 953

Fraud and Violations of Public Trust in Contract, Acquisition and Other Matters

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by revising Part 953 of Subchapter O, 32 CFR. The revision clarifies the criteria for reporting fraud and violations of public trust and updates terminology. It applies to all Air Force members involved with contracts or the acquisition process and the Air Force Office of Special Investigations.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Major Martin J. Connolly, phone: (202) 767-5126.

SUPPLEMENTARY INFORMATION: On August 1, 1979, the Department of the Air Force published a proposed rule (44 FR 45193) to revise Part 953 of Subchapter O, 32 CFR. At that time, interested persons were invited to participate in the proposed rulemaking by submitting comments to the contact person. No public comments were received. Minor administrative changes to the proposed rule have been included in the final rule.

Accordingly, Part 953 is revised to read as follows:

PART 953—FRAUD AND VIOLATIONS OF PUBLIC TRUST IN CONTACT, ACQUISITION AND OTHER MATTERS

Sec.

953.1 Purpose.
953.2 Fraud and violations of public trust.
953.3 Reporting responsibilities.
953.4 Investigative responsibilities.

Authority: 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 124-8, December 14, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 953.1 Purpose.

This part assigns responsibilities and prescribes procedures for reporting and investigating suspected fraud and violations of public trust—in Air Force contract, acquisition and other matters—and of Air Force standards of conduct. The part applies to all Air Force members involved with contracts or the acquisition process and the Air Force Office of Special Investigations.

Note.—All of the personally identificable records established under the provisions of this regulation are affected by the Privacy Act of 1974 (5 U.S.C. 552a). The authority for establishing and maintaining records concerning these matters is 44 U.S.C. 3101. Records established in accordance with this regulation are maintained in Air Force System F1241007YLNGA Criminal Records. The description of this system of records, its uses and contents have been published in the **Federal Register**, according to the Privacy Act. The Secretary of the Air Force has exempted this system of records from certain provisions of the Privacy Act, according to 5 U.S.C. 552a(j)(2) (see AFR 12-35).

§ 953.2 Fraud and violations of public trust.

(a) Fraud against the Air Force in acquiring, using, and disposing of resources may occur in two basic forms. First individuals or companies outside of the Air Force, who are performing contracts in support of Air Force needs, may independently attempt to defraud the Air Force. This form of fraud includes, but is not limited to, false billings, willful diversion or misuse of Government property, willful delivery of nonconforming supplies, and collusive bidding. The second form of fraud involves violations of public trust. Air Force personnel (military or civilian), either independently or in concert with individuals or companies outside of the Air Force, may attempt to use their positions of public trust for personal gain at the expense of the Air Force. Violations of public trust include, but are not limited to, collusion, favoritism, bribery, offering, soliciting or accepting gratuities, and conflicts of interest.

(b) The public trust in the integrity of Air Force contract, acquisition, disposal, and all other business transactions is of the utmost importance and must be maintained. All Air Force personnel (military and civilian) who have reason to believe fraud or violations of public trust have been or are being committed, must promptly report all information within their knowledge or belief to the responsible Air Force authorities. Violations of the standards of conduct, as defined in Part 920 of this Chapter, also will be reported and investigated in the same manner as fraud and violations of public trust.

§ 953.3 Reporting responsibilities.

The prompt reporting of any indications of fraud or violations of public trust mentioned in § 953.2 is extremely important.

(a) All personnel who have information leading to the belief that any of the violations referred to in § 953.2 have been or may be committed, must report all such information to the nearest Air Force Office of Special Investigations (AFOSI) activity or to the Commander having:

(1) Immediate jurisidiction over the Air Force personnel allegedly involved; or

(2) Administrative responsibility for the contract(s) involved.

(b) The commander who receives information that shows possible fraud or violations of public trust, as described in § 953.2, must promptly refer the matter to the nearest AFOSI activity for investigation.

(c) All personnel are required to prevent the disclosure of such information to unauthorized persons. Unauthorized or premature disclosure could compromise any subsequent investigation or could damage, without cause, the reputation of persons ultimately determined as innocent of wrongdoing.

(d) Fraudulent activities often appear on the surface as administrative or managerial irregularities; therefore, an individual should never assume the responsibility for deciding the significance of the information under consideration. Any question of fault on the part of any individual or company is resolved by reporting the information.

§ 953.4 Investigative responsibilities.

(a) Within the Air Force jurisdiction, AFOSI investigates all suspected fraud in Air Force contract, acquisition, disposal transactions, and other matters, when requested by the appropriate commander. The AFOSI forwards initial, interim, and final reports of investigation to the commander concerned, for information and necessary action. In appropriate cases, AFOSI coordinates investigations conducted outside the United States with host country authorities, as provided for in the Status of Forces Agreement or related agreements.

(b) AFOSI refers appropriate cases in these categories to the Department of Justice (including the Federal Bureau of Investigation) and coordinates Air Force investigations with all interested Government agencies. Air Force commanders must not refer allegations or complaints on such matters, either to the local or the national office of the Department of Justice (or the Federal Bureau of Investigation); however, they must cooperate fully with representatives of the Department of Justice, when requested.

(c) The AFOSI district serving the commander concerned (see 953.3(a)) informs the commander when information of the type covered by this part is furnished directly to any echelon of the AFOSI. It also informs the commander of the nature of the information, so the commander can determine if an investigation should be requested.

[FR Doc. 80-10412 Filed 4-4-80; 8:45 am]
BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1448-2]

Approval and Promulgation of Implementation Plans; Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a temporary variance from the Maryland State Implementation Plan for Unit #2 of the C.P. Crane Generating Station of the Baltimore Gas and Electric Company of Baltimore County, Maryland. The variance applies to those regulations prohibiting visible emissions, particulate matter regulations for solid-fuel burning equipment, and regulations on usage of fuel with sulfur content in excess of one percent by weight.

The variance applies to Unit #2 only and requires that sulfur oxide emissions shall not exceed 3.5 pounds per million BTU actual heat input (equivalent to approximately 2.1 percent sulfur coal) and particulate matter emissions shall not exceed 0.6 pounds per million BTU actual heat input.

EFFECTIVE DATE: April 7, 1980.

ADDRESSES: Copies of the SIP variance and accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan.

Air Quality Programs, State of Maryland, O'Conor Office Building, 201 W. Preston St., Baltimore, MD 21201, ATTN: George Ferreri, Administrator.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW (Waterside Mall), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Miss Patricia Sheridan, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597-8176.

SUPPLEMENTARY INFORMATION:

I. Background

On October 24, 1979, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, region III a proposed temporary variance from the Maryland State Implementation Plan. The proposed variance consisted of a Secretarial Order for the Baltimore Gas and Electric Company—Unit #2 of the C.P. Crane Generating Station, Baltimore County, Maryland. In his letter, the Administrator of Maryland Air Quality Programs certified that the order was adopted in accordance with the public hearing and notice requirements of 40 CFR 51.4 and all relevant State procedural requirements, and asked that EPA consider the Secretarial Order as a temporary revision of the State Implementation Plan. This order was initiated in anticipation of a Department of Energy "notice of effectiveness" to convert the Crane Station to burn coal. The variance, effective for a period of 120 calendar days, applies to the regulations which prohibit visible emissions (COMAR 10.18.04.02(A)), limit particulate matter from solid fuel burning equipment (COMAR 10.18.04.03(B)(3)), and which prohibit usage of fuel with sulfur content in excess of one percent by weight (COMAR 10.18.04.04(B)(1)).

The variance applies to Unit #2 only and requires that sulfur oxide emissions from the unit shall not exceed 3.5 pounds per million BTU actual heat input (equivalent to approximately 2.1 percent sulfur coal). Although particulate matter emissions have been shown in supporting documentation from the State not to exceed 0.6 lbs. per million BTU heat input, which is the limit used in the air quality demonstration this limit was not made a condition of the original Secretarial Order. Subsequently, after discussions between all parties involved, Maryland amended the Order to include this limit for particulate matter. Both the sulfur oxides and particulate matter shall be averaged over a 24-hour period.

II. Control Strategy Demonstration

Diffusion modeling indicates that air quality standards for both sulfur dioxide and particulate matter will not be violated nor will there be a significant impact on a nonattainment area, as a result of granting the temporary variance. Furthermore, the applicable PSD increments will not be exceeded by the increased emissions due to the variance.

III. Approvability of the Proposed Variance

Based upon an evaluation of the material submitted by the State of Maryland, the Agency believes that the proposed variance satisfies the applicable requirements of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. Therefore, the Administrator approves these variances from the Maryland State Implementation Plan.

Concurrently, the Administrator amends 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) to incorporate this plan variance into Maryland's SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401—642)

Dated: April 1, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. In § 52.1070 *Identification of plans,* paragraph (c)(29) is added to read as follows:

§ 52.1070 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(29) Variances from Maryland regulations 10.18.04.02(A), 10.18.04.03(B)(3), and 10.18.04.04(B)(1) relating to visible emissions, particulate matter from solid fuel burning equipment and prohibition of usage of fuel with sulfur content in excess of one percent by weight, respectively. The variance request was submitted on October 24, 1979 by the Governor of Maryland.

[FR Doc. 80-10445 Filed 4-4-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

[PP 8F2085/PP 8F2110; FRL 1457-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Diclofop-methyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide diclofop-methyl in or on barley grain, barley straw, wheat grain, wheat straw and soybean seed at 0.1 ppm. The regulation was requested by American-Hoechst Corporation. This rule establishes a maximum permissible level for residues of diclofop-methyl.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Willa Garner, Ph. D, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, (202-755-1397).

SUPPLEMENTARY INFORMATION: On February 27, 1980, the EPA published a notice of proposed rulemaking in the Federal Register (45 FR 12855) in response to pesticide petitions (PP 8F2085/PP 8F2110) submitted to the Agency by American Hoechst Corporation, Agricultural Division, Somerville, New Jersey 08876, under provisions of the Federal Food, Drug, and Cosmetic Act. The position proposed that 40 CFR 180 be amended by the establishment of a tolerance for combined residues of the herbicide diclofop-methyl (methyl 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoate) and its metabolites 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoic acid and 2-[4-(2,4-dichloro-5-hydroxyphenoxy)phenoxy]propanoic acid in or on the raw agricultural commodities: barley grain, barley straw, soybean seed, wheat grain, and wheat straw at 0.1 ppm.

No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. A number of comments were received from farmers, university co-operators, and businesses that diclofop-methyl is needed for control of escape grasses and volunteer corn in soybeans this year. The analytical method has been validated at Biospheric Inc., Laboratory with EPA personnel observing and is available for enforcement purposes. The analytical method has not yet been validated at the Agency's laboratory, however, the validation is in progress.

It has been concluded, therefore, that the proposed amendment to 40 CFR Part 180 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, within 30 days after publication in the Federal Register, May 7, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M Street, S.W., Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on the date of publication in the FEDERAL REGISTER, April 7, 1980, Part 180, Subpart C, is amended by adding a tolerance for residues of diclofop-methyl as set forth below.

Part 180, Subpart C, § 180.385 is added, as follows:

§ 180.385 Diclofop-methyl; tolerances for residues.

Tolerances are established for the combined residues of the herbicide diclofop-methyl (methyl 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoate) and its metabolites, 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoic acid and 2-[4-(2,4-dichloro-5-hydroxyphenoxy)phenoxy]propanoic acid, in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, grain	0.1
Barley, Straw	0.1
Soybean seed	0.1
Wheat, grain	0.1
Wheat, straw	0.1

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: March 28, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-10558 Filed 4-4-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 30

[CGD 79-081a]

Evaluation of Programs for Licensing and Certification of Foreign Tank Vessel Personnel

AGENCY: Coast Guard, DOT.

ACTION: Interim final rules.

SUMMARY: These regulations contain interim procedures for evaluating tank vessel personnel licensing and certification programs of foreign countries. The regulations provide that evaluations are to be done for countries which license or certificate personnel serving on tank vessels that enter or operate in U.S. navigable waters and ports. The Port and Tanker Safety Act of 1978 requires that evaluation procedures be developed, and these interim procedures will be followed pending the development of additional or revised procedures. Tank vessels manned with officers licensed by a country receiving an unfavorable evaluation will be subject to the Act's prohibition against operation in U.S. navigable waters and ports with those officers.

DATES: 1. *Effective Date.* These regulations become effective on May 7, 1980.

(2) *Comment Closing Date.* Comments on these regulations, as requested below, should be submitted on or before May 22, 1980.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/24) (CGD 79-081a), U.S. Coast Guard, Washington, D.C. 20593. The comments will be available for inspection and copying between the hours of 7 a.m. and 5 p.m., Monday through Thursday, except holidays, at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR Daniel E. Struck, c/o Commandant (G-MVP/14), U.S. Coast Guard, Washington, D.C. 20593. Telephone: (202) 426-6259.

SUPPLEMENTARY INFORMATION: 1. In accordance with 5 U.S.C. 553, these interim regulations are being issued without a prior notice of proposed rulemaking and they become effective immediately. Timely exercise of the Coast Guard's statutory responsibilities under the Port and Tanker Safety Act of 1978 (Pub. L. 95–474) requires this action, and to do otherwise would be contrary to the public interest. The evaluations described in the regulations are required by Section 5 of the Act. The evaluation process has already begun and implementing regulations and procedures, which are also required by the Act, are needed to govern the process. Any substantial delays in completing evaluations would prevent timely enforcement of the Act's prohibition on operation of foreign tank vessels in U.S. navigable water with officers licensed by a country receiving an unfavorable evaluation.

2. Although an opportunity for public comment has not been provided in advance of issuing these regulations, public input is nevertheless needed to assure that the procedures are workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the address listed above. Commenters should include their names and addresses, identify the docket number for these regulations (CGD 79–081a) and give reasons for the comments. Persons desiring acknowledgment of their comments should enclose a self-addressed postcard or envelope. Comments should be submitted before the closing date in order to receive timely consideration. Based upon comments received, the regulations may be revised or additional regulations may be issued.

Drafting Information

The principal persons involved in drafting these interim regulations are LCDR Daniel E. Struck, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Discussion of Regulations

General

3. The Port and Tanker Safety Act of 1978 contains, among other things, detailed requirements concerning foreign tank vessel personnel. Specifically, Section 5 of the Act, as set out in 46 U.S.C. 391a(11), requires that regulations be adopted concerning verification of manning, training, qualification, and watchkeeping standards promulgated by foreign countries that license or certificate personnel serving on tank vessels which enter or operate in U.S. navigable waters and ports. The Act requires the regulations to include, at a minimum, provisions relating to:

(A) the receipt through the Inter-Governmental Maritime Consultative Organization or from the certificating state of the English text of laws, decrees, orders, regulations, specimen licenses and certificates, and other pertinent documents pertaining to manning, training, qualification, and watchkeeping of seafarers;

(B) the publication and distribution of, or otherwise making available to the public and appropriate enforcement personnel, copies of materials received as provided for in paragraph (A);

(C) the evaluation, at intervals of not less than five years, of each foreign state's system for licensing and certification of seafarers, including study course content and duration, examination requirements and prerequisites for licensing and certification, and related controls;

(D) determination after the evaluation required by clause (C) of whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States;

(E) publication in the **Federal Register** of each determination made pursuant to clause (D), together with a brief explanation of the reasons therefor; and

(F) manning levels, based on vessel size and type of operation, when operating in the navigable waters of the United States, or in the safety zone in connection with utilization of deepwater ports.

4. These regulations contain the minimum provisions required by 46 U.S.C. 391a(11), except the regulations prescribing manning levels for foreign tankers as required by subsection (f). Proposed manning level regulations are being prepared in a separate rule making docket (CGD 79–081b) and a notice of proposed rule making will be published in the near future.

5. These regulations are being issued on an interim basis. Additional or revised procedures may be necessary depending upon analysis of comments received and upon experience gained in evaluating various foreign licensing and certification programs in accordance with these regulations. Also, as explained more fully in paragraph 10 of this preamble, revisions can be expected as improved U.S. and international licensing and certification standards are developed.

Specific Provisions.

6. Section 30.30–1 explains the scope and purpose of the regulations. As provided in that section, evaluation of vessel personnel licensing and certification programs will be done for countries which license or certificate personnel on tank vessels that enter or operate in U.S. waters and ports. If an evaluation shows that licensing and certification standards of a foreign country are not comparable to or more stringent than U.S. standards, tank vessels manned with officers licensed by that country will be subject to the prohibition in 33 U.S.C. 1228(a)(5) on operation with those officers in U.S. navigable waters and ports. This prohibition was enacted as a part of Section 2 of the Port and Tanker Safety Act of 1978.

7. Section 30.30–3 lists the various materials to be submitted for evaluation. These materials include the English text of all laws, regulations, and other documents pertaining to manning, training, qualification, and watchkeeping of personnel on tank vessels engaged in foreign trade, as well as copies of specimen licenses and certificates issued to tank vessel personnel. The principal materials to be considered in each evaluation will be those concerning training and qualification of tank vessel personnel. The other materials will be considered to the extent that they relate to training and qualification.

8. During March 1979, requests for the evaluation materials listed in § 30.30–3 were sent to 72 countries and, to date, 38 responses have been received. Twelve countries provided the materials in English text and thirteen countries sent materials in their own language indicating that English text was not available. The remaining responses did not provide materials and indicated that tankers from those countries do not operate in U.S. waters. It is apparent from these responses that § 30.30–3 may not be a workable provision in its present form. Accordingly, comments are specifically requested on the various available means, if any, for providing English text of materials. Based upon comments received, revised procedures may be necessary.

9. Section 30.30–5 provides the Coast Guard address for submitting evaluation materials. Although 46 U.S.C. 391a(11)(A) provides that materials may also be sent to the United States through the Inter-Governmental Maritime Consultative Organization, in all probability that organization will not have the resources to reproduce the materials and transmit them to the United States and other countries requesting them. It is anticipated that most submissions will be sent directly to the Coast Guard.

10. Section 30.30–5(b) provides that updated materials may be submitted at any time during the evaluation process. This provision is necessary since many

countries are currently upgrading their licensing and certification requirements to be consistent with the standards in the recently finalized International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978 (STCW–1978).

11. Section 30.30–7 provides that evaluation materials will be available for inspection and copying at Coast Guard Headquarters in Washington, D.C. The volume of materials already received is lengthy and precludes extensive publication or distribution of copies. If copies of materials are desired, the fees for this service are as prescribed in 49 CFR 7.95.

12. Section 30.30–9 contains evaluation standards. As stated in that section, evaluation will be by comparison to the U.S. vessel personnel licensing and certification regulations in Part 5, Part 10, and Part 12 of Title 46, Code of Federal Regulations, and by comparison to the laws referenced in those regulations. Periodic revision of this section can be expected as improved United States and international standards are developed. For example, U.S. regulations on qualifications of tankermen are currently being prepared in separate proposed rule making (CGD 79–116), and when those regulations are finalized consideration will be given to referencing them in § 30.30–9 as regulations used for comparison purposes in each evaluation. Also, upon U.S. ratification of the STCW–1978, consideration will be given to replacing the comparison regulations listed in § 30.30–9 with STCW–1978 standards.

13. Section 30.30–11 contains procedures for making and issuing determinations required by 46 U.S.C. 391a(11). As provided in § 30.30–11(c), each determination remains in effect for 5 years unless sooner cancelled. A five year period has been selected to coincide with the requirement in 46 U.S.C. 391a(11) that reevaluations of foreign licensing programs be conducted at intervals of not less than 5 years. However, these regulations do not include reevaluation procedures, and a decision on what procedures are needed will be based on the progress of international ratification of the STCW–1978. In the case of countries adopting the Convention, extensive reevaluations will probably not be necessary and, accordingly, reevaluation procedures should be straightforward.

Evaluation

14. An evaluation of the economic consequences of these regulations has been prepared and placed in the public docket. Comments on the content and accuracy of the evaluation may be submitted to the address listed above and will be considered in conjunction with comments submitted on the regulations. As stated in the evaluation, the total cost to translate the licensing and certification materials described in the regulations is estimated to be $940,000. Approximately 47 sets of materials will need translation at an average cost of $20,000 per set. Some administrative expenses will also be incurred in collecting and transmitting materials to the Coast Guard. The principal benefits of these regulations, and of subsequent action taken to enforce the prohibition in 33 U.S.C. 1228(a)(5), will be a reduction in the probability of tanker collisions, groundings, and oil spills in U.S. waters resulting from operational error by vessel personnel.

Regulations

In accordance with the foregoing, Part 30 of Title 46, Code of Federal Regulations, is amended as follows:

1. By adding a new paragraph (h) to § 30.01–5 to read as follows:

§ 30.01–5 Application of regulations—TB/ALL.

* * * * *

(h) Subpart 30.30 contains procedures for evaluating vessel personnel licensing and certification programs of foreign countries which license or certificate personnel serving on tank vessels that enter or operate in U.S. navigable waters and ports.

2. By adding a new subpart 30.30 to read as follows:

Subpart 30.30—Interim Procedures for Evaluating Vessel Personnel Licensing and Certification Programs of Foreign Countries

Sec.

30.30–1 Scope and purpose.
30.30–3 Evaluation materials.
30.30–5 Submission of evaluation materials.
30.30–7 Availability of materials.
30.30–9 Evaluations.
30.30–11 Determinations.

Authority: 46 U.S.C. 391a, as amended by Sec. 5 of Pub. L. 95–474; 49 U.S.C. 1655(b); 49 CFR 1.46.

Subpart 30.30—Interim Procedures for Evaluating Vessel Personnel Licensing and Certification Programs of Foreign Countries

§ 30.30–1 Scope and purpose.

(a) This subpart contains procedures for evaluating vessel personnel licensing and certification programs of foreign countries. Evaluations are done for countries which license or certificate personnel serving on tank vessels that enter or operate in U.S. navigable waters and ports.

(b) The purpose of each evaluation is to determine whether a foreign licensing and certification program has standards that are comparable to or more stringent than U.S. standards.

(c) A determination that licensing and certification standards of a foreign country are not comparable to or more stringent than U.S. standards will subject tank vessels manned with officers licensed by that country to the prohibition in 33 U.S.C. 1228(a)(5) on operation with those officers in U.S. navigable waters and ports.

§ 30.30–3 Evaluation materials.

The materials to be submitted for evaluation must include the English text of the following:

(a) All laws, decrees, orders, and regulations relating to manning, training, qualification, and watchkeeping of personnel on tank vessels engaged in foreign trade.

(b) A copy of each type of license and certificate issued by the country to tank vessel personnel.

§ 30.30–5 Submission of evaluation materials.

(a) The evaluation materials listed in § 30.30–3 should be sent to Commandant (G-MVP/14), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593. The materials should include the name and address of the person to whom correspondence concerning the evaluation can be sent.

(b) Updated materials may be submitted at any time during the evaluation process.

§ 30.30–7 Availability of materials.

Evaluation materials submitted in accordance with this subpart will be available for inspection and copying between 7:30 a.m. and 4:30 p.m., Monday through Thursday, except holidays, at Coast Guard Headquarters, Room 1400, 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: (202) 426–1500.

§ 39.30–9 Evaluation.

Materials submitted in accordance with this subpart will be evaluated by comparison to the regulations in Part 5, Part 10, and Part 12 of this chapter, and by comparison to the U.S. laws referenced in those regulations.

§ 30.30–11 Determinations.

(a) After evaluation of materials submitted in accordance with this subpart, a determination will be made as to whether the licensing and certification program described by the materials has standards that are comparable to or more stringent than standards set by the regulations and laws referenced in § 30.30–9.

(b) Notice of each determination made in accordance with this section and a brief explanation of reasons therefor

will be published in the **Federal Register**. A copy of this notice will also be sent to the person whose name is provided in accordance with § 30.30–5.

(c) Each determination remains in effect for 5 years unless sooner cancelled.

(d) Any request to reconsider a determination must be submitted to the address listed in § 30.30–5 and must include a statement of reasons in support. The person submitting the request will be notified in writing of the action taken.

(46 U.S.C. 391a, as amended by Sec. 5 of Pub. L. 95–474; 49 U.S.C. 1655(b); 49 CFR 1.46.)

Dated: March 31, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80–10444 Filed 4–4–80; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL MARITIME COMMISSION

46 CFR Part 540

[General Order 20; Amdt. 6; Docket No. 79–93]

Security for the Protection of the Public

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This amends the Commission's regulations to increase the maximum amount of insurance, escrow account, guaranty and surety bond required of holders of a Certificate (Performance) from $5,000,000 to $10,000,000. These changes are necessary to offset the impact of inflation, the decline in the value of the dollar, and the rise in the consumer price index.

EFFECTIVE DATE: February 20, 1981.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Certification & Licensing, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573 (202) 523–5840.

SUPPLEMENTAL INFORMATION: This proceeding was instituted by notice of proposed rulemaking published in the **Federal Register** on October 31, 1979, (44 FR 62546–62547) to: (1) amend § 540.9(j) of the Commission's regulations (46 CFR 540.9(j)) by increasing the maximum amount of insurance, escrow account, guaranty and surety bond required of an applicant (certificant) from $5,000,000 to $10,000,000, as evidence of financial responsibility; and (2) effect corresponding revisions to Form FMC–131, Application For Certificate of Financial Responsibility. This amendment will not alter the existing requirements with respect to a self-insurer who must demonstrate financial responsibility by maintenance of working capital and net worth each in an amount no less than 110 percent of highest unearned passenger revenue within the preceding two fiscal years.

In its notice the Commission explained its belief that the maximum amount of coverage by insurance, escrow account, guaranty or surety bond should be increased to $10,000,000 based upon the inflationary impact since 1967 when the $5,000,000 maximum was established, the decline in the value of the dollar, the rise in the consumer price index, the increase in price of fuel oil and the increase in wages, all resulting in the doubling of most fares.

Comments were received from (1) The International Committee of Passenger Lines (ICPL) whose membership is made up of 16 major foreign flag passenger operators which operate some 55 passenger vessels subject to the Commission's regulations; (2) The Liverpool and London Steam Ship Protection and Indemnity Association, Limited, The Standard Steamship Owners' Protection and Indemnity Association, Limited, The Standard Steamship Owners' Protection and Indemnity Association (Bermuda) Limited, Sveriges Angfartygs Assurans Forening, The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited and The West of England Ship Owners Mutual Protection and Indemnity Association (Luxembourg) (referred to herein as "the Associations") who are insurance associations composed of shipowners and operators who mutually insure one another against various liabilities arising out of the operation of their vessels and who are part of a group of protection and indemnity associations which collectively insure approximately 85% of the world's ocean-going vessel tonnage; and (3) The Steamship Mutual Underwriting Association (Bermuda) Limited (Steamship Mutual Bermuda) which is also an insurance association.

Positions of the Commentators

It is the position of ICPL that (1) the $5,000,000 ceiling is still adequate to protect against all reasonably foreseeable risks of nonperformance; (2) that the proposed increase will result in unnecessary costs which must ultimately be borne by cruise passengers; and (3) that, in any event, should the proposed increase be adopted, the effective date of the new regulation should be postponed for a 12-month period. ICPL argues that there have been only two publicized instances in which it has been necessary to resort to guaranties filed with the Commission and in both instances the $5,000,000 guaranty was more than adequate and proved to be approximately 5 times more than was ultimately required for full restitution; that apart from these two isolated instances, the cruise lines have achieved a remarkable record of satisfying their performance obligations to more than ten million passengers transported over the past 13 years since General Order 20 has been in effect; that since there is nothing to substantiate that the existing $5,000,000 maximum coverage will be inadequate to deal with any reasonably foreseeable future nonperformance, ICPL members consider the Commission's proposed increase as unnecessary and unwise; that if the increase is put into effect, many passenger vessel operators now using guaranties are likely to resort to other permissible methods of establishing their financial responsibilty in an amount less than $10,000,000 resulting in increased administrative expenses on the part of the lines themselves and additional supervision expenses on the part of the Commission in order to insure compliance with the Commission's regulations; and that from any standpoint such extra outlays are excessive and without any commensurate benefit to the traveling public at all.

For the reasons put forward by ICPL, the Associations join in ICPL's comments both as to the lack of need for the rule change and the existence of a need for a substantial "lead time" before its effective date if the Commission should decide to adopt it, such as an effective date 12 months following adoption of the change. The Associations argue that adoption of the rule change would necessitate a substantial expenditure of time and effort, not only on the part of the passenger vessel owners and operators but on the part of the Associations, in negotiating terms whereon the Associations would be prepared to issue guaranties on behalf of their members for increased amounts. If in any instance negotiations were to fail, steps would have to be taken by the member concerned to arrange for some other form of evidence of financial responsibility which would require the approval of the Commission and necessitate steps to terminate the existing guaranty of the Association concerned; and that these problems are aggravated by the distances involved with the Associations located in Europe and Bermuda, their members scattered

over the world, and the Commission in Washington.

Steamship Mutual Bermuda opposes the proposed increase in the guaranty "ceiling" on the grounds that it is unnecessary and that it will result in a substantial increase in the cost of doing business for cruise operators, which increase will ultimately be borne by passengers. However, in the event that the proposed increase is adopted, the Association requests that its implementation be delayed for at least one year. Steamship Mutual Bermuda states that delaying implementation is necessary because of the financial arrangements behind each guaranty; that cruise operators submitting guaranties to the Commission are required to post counter-security with the Association amounting to cash or its equivalent, such as bank guaranties or letters of credit; that a doubling of the guaranty requirement to $10,000,000 will necessitate a substantial rearrangement of the member-operator's finances; and since company budgets and cash flow projections from cruises are prepared at least a year in advance a sudden implementation of the guaranty increase could cause hardship, particularly for small operators.

Discussion

The Commission has given serious consideration to the comments received realizing that the increase in the maximum to $10,000,000 could increase the cost of operations of some applicants (certificants). The Commission is also well aware of the commendable record to date of the cruise lines in satisfying their performance obligations, a fact that it hopes will not be lost on guarantors and sureties.

However, since 1967 when the $5,000,000 maximum was established, the inflationary impact has been severe and continues. In January, 1980, a 1967 dollar was worth 42.9 cents and the Consumer Price Index reached 233.2. The price of fuel oil has increased approximately 8 times since 1967 and wages have more than doubled. The inflationary spiral and rising fuel costs have resulted in at least a doubling of most fares, which continue to rise to meet increased operating costs. Unearned passenger revenue of many owners and charterers has increased substantially and should continue to increase as they add vessels to their fleets, increase the number of available accommodations of their present vessels and raise their fares to meet increased costs.

Accordingly, the Commission continues of the belief that the increase of the maximum amount of coverage to $10,000,000 with respect to insurance, escrow account, guaranty and surety bond is warranted. None of the commentators claim that $10,000,000 of unearned passenger revenue is unattainable. Consequently, it is the position of the Commission that a maximum of $10,000,000 is fair and reasonable and necessary to provide greater protection to the passenger public.

It should be noted that this is a maximum, not a minimum requirement. Most applicants (certificants) presently qualifying for their Certificate (Performance) by submitting less than the present $5,000,000 maximum will not be affected, except, of course, as their unearned passenger revenue experience requires changes in the amount of coverage. Consequently, we do not believe implementation of the increase will cause any real hardship for small operators.

With the maximum increased to $10,000,000 those cruise lines presently submitting less than the present maximum of $5,000,000 will continue to report unearned passenger revenue. The cruise lines affected will be those whose unearned passenger revenue presently and in the future will exceed $5,000,000. The Commission anticipates that fewer cruise lines will submit the $10,000,000 maximum than now furnish the $5,000,000 maximum resulting in an increased number of certificants reporting unearned passenger revenue. While this will increase both the workload of the certificants and of the Commission and its staff, the increase should not be overwhelming for either.

All commentators request that should the Commission, after considering their positions and arguments, decide to increase the maximum to $10,000,000, that implementation of the increase be delayed at least one year. As justification for such delay in implementation, the commentators variously state that cruise programs, cash flow projections and budgets are estimated at least 12 to 18 months in advance; that time is required to negotiate terms with the P & I Associations to issue guarantees for increased amounts; that additional time may be needed to arrange for some other form of evidence of financial responsibility; and that sudden implementation of the increase could cause hardship.

The Commission is of the opinion that a delay in implementation is justified since many applicants (certificants) now providing $5,000,000 may not wish to increase the amount of the evidence of financial responsibility to $10,000,000. This will require the reporting of unearned passenger revenue to the Commission, determining the amount of coverage required and considering possible changes in the method of establishing financial responsibility. All of these matters require Commission approval. The delay in implementation will also permit the cruise lines and the Commission staff to explore any new method of establishing financial responsibility.

The Commission considers the request for delay of implementation reasonable and sets the effective date of this final rule as February 20, 1981, to conform to the policy year of the P & I Associations which write most of the guarantees.

The Commission has considered all filed comments and arguments submitted in this rulemaking proceeding. Accordingly, pursuant to section 3 of Public Law 89–777 (46 U.S.C. 817e); and section 4 of the Administrative Procedure Act (5 U.S.C. 553), the Federal Maritime Commission hereby amends 540.9(j) of the Commission's General Order 20 (46 CFR 540.9(j)) and Application for Certificate of Financial Responsibility (Form FMC–131) to read as follows:

1. 540.9(j) is revised to read as follows:

"§ 540.9 Miscellaneous.

* * * * *

"(j) The amount of (1) insurance as specified in § 540.5(a), (2) the escrow account as specified in § 540.5(b), (3) The guaranty as specified in § 540.5(c), or (4) the surety bond as specified in § 540.6 shall not be required to exceed 10 million dollars (U.S.)."

2. Introductory paragraph of "Part II—Performance" of the Application Form FMC–131 is revised to read as follows:

"Answer items 8–15 if applying for Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance. If you are filing evidence of insurance, escrow account, guaranty or surety bond under Subpart A of 46 CFR Part 540 and providing at least ten (10) million dollars (U.S.) of coverage, you need not answer questions 10–15."

3. Item 8 of the Application Form FMC–131 is revised to read as follows:

"8. If you are providing at least ten (10) million dollars (U.S.) of coverage, state type of evidence and name and address of applicant's insurer, escrow agent, guarantor or surety (as appropriate)."

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-10318 Filed 4-4-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-237; RM-2937; FCC 80-134]

Radio Broadcast Services; Amending the Primers on Ascertainment of Community Problems by Commercial Broadcast Renewal Applicants and Noncommercial Educational Broadcast Applicants, Permittees and Licensees

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: The Commission has adopted amendments to the procedural requirements governing the obligation of commercial radio and television license renewal applicants and noncommercial educational television broadcast applicants to ascertain the needs of all significant elements in their communities of license. These amendments to the *Primer on Ascertainment of Community Problems by Commercial Broadcast Renewal Applicants* and the *Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants* are intended to improve the procedures which a broadcaster would use in ascertaining the needs and interests of significant segments of its community of license which are taken into account in developing programming responsive to local needs and interests. This action was initiated by a petition filed by the National Gay Task Force and 142 gay organizations.

EFFECTIVE DATE: July 7, 1980.

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

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of the Primers on Ascertainment of Community Problems by Commercial Broadcast Renewal Applicants and Noncommercial Educational Broadcast Applicants, Permittees and Licensees, BC Docket No. 78-237, RM-2937. See 43 FR 49021, October 20, 1978.

Report and Order—Proceeding Terminated

Adopted: March 12, 1980.

Released: April 4, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Lee absent; Commissioners Quello and Jones concurring in the result.

1. The Commission has before it the proposal set forth in the *Memorandum Opinion and Order and Notice of Proposed Rule Making* (hereafter called the *"Notice of Proposed Rule Making"*), 43 Fed. Reg. 35357, published August 9, 1978, and the *Further Notice of Proposed Rule Making*, 43 Fed. Reg. 41241, published September 15, 1978, in this proceeding. In these documents, the Commission proposed to change language appearing in the *Primer on Ascertainment of Community Problems by Commercial Broadcast Renewal Applicants* (hereafter called the *"Commercial Primer"*),[1] and the *Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants* (hereafter called the *"Noncommercial Primer"*),[2] which sets forth the ascertainment requirements applicable to commercial radio and television license renewal applicants,[3] and noncommercial educational television broadcast applicants,[4] respectively. In response to these two *Notices*, a large number of parties filed formal or informal comments which will be considered herein. A list of the parties filing formal comments and/or reply comments is contained in Appendix D.

2. We note at the outset that the Commission has initiated a rule making proceeding (BC Docket No. 79-219) looking toward the substantial deregulation of commercial radio broadcasting. In fact, the formal ascertainment requirements imposed on commercial radio broadcasters are one of the categories of regulations being considered for repeal. The deregulation proceeding was begun to consider whether a competitive marketplace can operate to meet the underlying public interest concerns of the Communications Act and thus be relied upon to take the place of specific Commission requirements. Although future action may require different treatment of radio and television stations, for the moment we believe that commercial radio and television should be treated in the same fashion for the sake of uniformity.

Background

3. In order to place the proposal in proper perspective, we begin with a brief discussion of the community ascertainment procedure. As part of the material submitted in commercial radio and television renewal and noncommercial educational television applications, applicants are called upon to provide a showing of their efforts to ascertain and respond to the problems, needs and interests of the community to which they are licensed or which they propose to serve. In fulfilling this obligation, the Commission requires these applicants to consult with community leaders who represent the institutions and elements contained in the Community Leader Checklist (hereafter called "the Checklist")[5] of the *Commercial* and *Noncommercial Primers*.[6] This Checklist embodies nineteen "socio-economic elements" which can be added to or subtracted from to match the particular characteristics of any applicant's present or potential service area. Thus, the commercial radio and television renewal broadcast applicant or noncommercial educational television broadcast applicant may demonstrate

[1] 57 F.C.C. 2d 418 (1976).

[2] 58 F.C.C. 2d 526 (1976).

[3] A separate *Primer* provides ascertainment guidelines for applicants for construction permits for new radio and television commercial broadcast stations. *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 F.C.C. 2d 650 (1971) (hereafter called the *"1971 Primer"*). Commercial broadcast renewal applicants were required to comply with the *1971 Primer* as an interim measure until standards particularly appropriate to them were adopted. These standards were adopted in the *Commercial Primer* of 1976.

[4] The *Noncommercial Primer* applies to all noncommercial educational radio and television applicants, renewal and otherwise.

[5] The Checklist contains nineteen institutions and elements, as follows: (1) Agriculture; (2) Business; (3) Charities; (4) Civic, Neighborhood and Fraternal Organizations; (5) Consumer Services; (6) Culture; (7) Education; (8) Environment; (9) Government (local, county, state and federal); (10) Labor; (11) Military; (12) Minority and ethnic groups; (13) Organizations of and for the Elderly; (14) Organizations of and for Women; (15) Organizations of and for Youth (including children) and students; (16) Professions; (17) Public Safety, Health and Welfare; (18) Recreation; and (19) Religion.

[6] Applicants for construction permits for new commercial radio and television broadcast stations are not provided a checklist but are required to determine the composition of the community and select for consultations those community leaders that reflect that composition. Commercial radio and television stations licensed to communities of 10,000 or less outside all Standard Metropolitan Statistical Areas (hereafter called "SMSA's") and noncommercial educational radio applicants and existing licensees are also not provided a checklist, but rather are permitted to ascertain by any reasonable methods designed to provide them with an understanding of the problems, needs and interests of their service areas. Although noncommercial radio applicants and licensees must document their ascertainment process by a narrative statement, the Commission does not inquire into how the commercial licensee in a community of 10,000 or less outside all SMSA's discern its community's problems and needs.

that one or more of these elements or institutions is not present in its community. Alternatively, these applicants, at their own option, may utilize a category called "other" provided for in the *Commercial* and *Noncommercial Primers* for certain elements not on the Checklist but peculiar to a given community. However, if an applicant has consulted with leaders in all nineteen defined Checklist categories, its coverage of all significant elements will not be open to question. Through these community leader consultations, as well as through contacts with the public at large,[7] a community's local problems and needs are to be ascertained. Broadcasters are then to plan responsive programming. However, decisions relating to the specifics of programming, such as which ascertained community problems are chosen for treatment, what programs are selected as responsive to those problems, and the time of the presentation and duration of the program, are left to the broadcaster's discretion.

4. In response to a petition filed on behalf of the National Gay Task Force and 142 gay organizations (hereafter called "NGTF" or "petitioners"), requesting the addition of a category entitled "Organizations of and for the gay community" to the Checklist, the Commission issued the two *Notices* in this proceeding. Petitioners argued that the "other" category does not adequately provide for ascertainment of the needs of the gay community, which they allege is a significant element constituting ten percent of the national population. NGTF asserted that even though applicants are not restricted to consultations with leaders of the identified elements, in view of the fact that an applicant's coverage of all significant elements will not be open to question if it has consulted with leaders in all nineteen Checklist categories, it is logical to assume that most will go no further to identify community groups than those listed categories.

[7] Commercial radio and television applicants for both new stations and renewal are required to consult with a random sample of members of the general public as part of the ascertainment process. Although applicants for new noncommercial educational television stations are obligated to consult with a random sample of members of the general public, applicants for renewal of noncommercial educational television licenses may seek the views of the general public through a random survey of periodic call-in programs or public meetings or some combination of the last two methods. As to applicants for noncommercial educational radio licenses, renewal and otherwise, they may use any reasonable method designed to provide them with an understanding of the problems, needs and interests of their service areas.

The Notices

5. After carefully considering NGTF's arguments and comments submitted in response to its petition, we concluded that a rule making proceeding should be initiated. We stated that if broadcasters are not contacting certain elements which are significant in their communities because they do not appear on the Checklist, a question might arise regarding the adequacy of their ascertainment efforts. Concern was expressed that the category "other" might not be serving the purpose for which it is intended, that is to provide for consultations with unlisted elements or institutions which are significant in particular communities. We concluded, however, that amendment of the language appearing in the *Commercial* and *Noncommercial Primers* which refers to an applicant's obligation with respect to the "other" category seemed to be a better alternative for remedying this difficulty than amendment of the Checklist. Such a modification would have the effect of requiring applicants to consult with any element or institution which is significant in their communities even if it is not one of the nineteen categories on the Checklist.[8] This proposal was thought not only to serve petitioners but to benefit other elements, most notably the handicapped, which are significant in certain communities but are not on the Checklist. Thus, we proposed to change language appearing in both the *Commercial* and *Noncommercial Primers to* indicate that commercial radio and television renewal applicants and noncommercial educational television applicants have a responsibility to insure that all significant elements or institutions which are readily accessible within their communities, whether or not they are one of the nineteen categories on the Checklist, are ascertained. As to other elements or institutions which may be significant in a particular community but not readily accessible, it was proposed that they should be ascertained if their existence is brought to the attention of the applicant. We indicated that the changes proposed could aid broadcasters and the public by underlining the basic purpose of ascertainment. Although the Commission thought it was important to insure that the needs and interests of the community are taken into account in fulfilling the broadcaster's public trustee programming responsibilities, the Commission wanted to avoid any direct involvement in broadcaster programming judgments.

[8] In this regard, we note that the broadcaster has the discretion to decide which representative organizations or individuals of a particular element or institution it will contact.

Summary of Formal Comments

6. Fifty-one parties have filed formal comments in response to the Notices released in this proceeding. Approximately thirty percent of these submissions support the above-described proposal. Much of the support for the Commission's proposal came from gay groups and from organizations representing the disabled. On behalf of the former category, filings have been made by organizations such as Maturity, Dignity/Chicago and the Gay Activists Alliance. Representing the handicapped are organizations such as the Council of Organizations Serving the Deaf of Metropolitan Baltimore, the Epilepsy Foundation of America and the California Association of the Physically Handicapped.

7. In the filings in favor of the proposal, there was considerable support for the original suggestion set forth in the NGTF petition recommending the addition of a specific category entitled "organizations of and for the gay community" to the Checklist as well as the proposal set forth by the Commission. Although the Gay Activists Alliance believes that amending the Checklist is a better alternative than the Commission's proposal, it does believe that where the gay community is organized and visible, the proposed amendment might prove as effective as specific inclusion of gays in the Checklist. The shortcoming of the Commission's approach, the Alliance argues, is that it fails to take proper account of localities where gays are not yet visible or well organized. In regard to the disabled, the California Association of the Physically Handicapped agreed that the proposal is an improvement over the present guidelines. However, it believed that an even better solution would be to expand the Checklist from nineteen to twenty, with the twentieth category being "the handicapped." In contradistinction to this view is the United Church of Christ's suggestion that the Commission eliminate the Checklist approach and instead provide for local licensee initiated and developed lists of significant community groups.[9] It asserts that the Commission cannot escape the

[9] Prior to 1976, commercial broadcast license renewal applicants were governed by the *1971 Primer* (see n. 3, *supra*) and thus were required to determine the composition of the community and select for consultations those community leaders that reflected that composition. Prior to 1976, however, noncommercial educational broadcast applicants were excluded from formal ascertainment requirements.

impression, however unintentional, that its Checklist confers a kind of official status and that exclusion is tantamount to disenfranchisement in the forum of broadcasting. If the Commission is determined to have a checklist for ascertainment, however, the United Church of Christ favors including elements (such as gay and handicapped persons) which are significant in some communities but are not now included.

8. Supporters of the proposal believe it could bring important benefits. One of the most frequently used arguments in support of the proposed amendment is that it would encourage an accurate portrayal of homosexuals rather than a stereotypic one as is alleged to be the case at present. Beyond this they feel that the inclusion of the gay community in the ascertainment process can only benefit the population as a whole. Thus, the Atlanta Lesbian Feminist Alliance asserts that tolerance and understanding can only come about through abolishing ignorance and dispelling the myths which are held concerning gays. The National Center for Law and the Deaf take a similar tack regarding the handicapped, arguing that broadcasters do not give adequate coverage in news and public affairs programs to the problems, needs and interests of handicapped persons. Commenters further submit that this failure is a result of ignorance more than anything else. When broadcasters understand a situation, it is said, in many instances they have given coverage of it in a satisfactory fashion. Finally, as to the noncommercial educational sphere, it is argued by one commenter that more rigorous ascertainment requirements should be imposed on such applicants than those imposed on commercial broadcasters since the former group receives federal funds.

9. In opposition to the proposal, comments were submitted to the Commission by private individuals, broadcasters and organizations. A significant number of these parties, although objecting to the proposal as outlined in the *Notices*, are not adverse to the addition of gays and handicapped persons to the Checklist as specific categories if a case can convincingly be made for across-the-board significance of these elements. The National Association of Broadcasters (hereafter called "NAB") asserts that a procedure allowing for the addition of significant groups to the Checklist would still preserve the predictability and stability which presently exists under the ascertainment procedure. Indeed, an overwhelming number of opponents of the proposal make this same argument. For example, American Broadcasting Companies (hereafter called "ABC") contend that the benefits of the Checklist setting forth specified categories would be quickly dissipated by the addition of an extremely broad cleanup category. It further submits that if it were unable to rely on the Checklist for meaningful guidance, broadcasters would be thrust into the same perilous posture they were forced to assume prior to the initiation of the Checklist approach. (See n. 9, *supra*). Columbia Broadcasting System (hereafter called "CBS") also asserts that under the present proposal a licensee—in order to be safeguarded—would have to perform a full compositional study of its community in order to clearly establish the basis for its selection of community leader interviewees.

10. Group One, among others, asserts that the proposal would spawn a host of controversies leading to litigation such as that over the Commission's failure to define the terms "significant" and "readily accessible" while serving no cognizable public interest. In this context, other parties allege that the Commission appears to be saying in the *Notices* that any group with a claim to significance within a community must be included so long as it brings itself to the licensee's attention.

11. Word Today and Streator Broadcasting Corporation oppose the proposal arguing that it would put the broadcaster in the dubious position of consulting and programming to meet the needs of a group, *i.e.*, gays, involved in illegal activities. According to statistics provided by the National Religious Broadcasters, engaging in homosexual acts is illegal in 27 states, Washington, D.C., Puerto Rico, the Virgin Islands, Guam and American Samoa. According to those opposing the proposal, it is unwise because it invites similar treatment of a range of other questionable groups. In this context, some parties, such as Women to Rescind the Equal Rights Amendment in Rhode Island, submit that there are few developments more threatening to the moral well-being of this nation than requiring broadcasters to consult with openly immoral groups of our society in planning the content of their programming. Many of these commenters object to what they see as the result of such gay ascertainment, that is programming favorably espousing the homosexual lifestyle.

12. A number of parties, including ABC, note that when the *Commercial Primer* was adopted, the Commission rejected a proposal by the Gay Coalition Task Force to include the gay community as a specific category in the Checklist. According to these parties, there has been no credible showing that gay organizations are a significant element in nearly all broadcast communities or that in those communities where gay groups are demonstrably a significant element, they are being ignored in the ascertainment process. ABC submits that its stations are located in large and diverse markets and, as such, regularly ascertain representatives of the gay community including such interviews in category (12), minority and ethnic groups. Other parties also comment to this effect, stating that homosexuals are ascertained either under category (12) or the category "other," while the handicapped are ascertained under category (17), Public Safety, Health and Welfare, or, the "other" category. NAB asserts that the experiences of the National Gay Task Force and other gay rights organizations in being refused interviews by broadcasters on the grounds that groups other than the nineteen enumerated on the Checklist are not required to be contacted cannot be the basis for a generalization that no unlisted groups are contacted. Finally, various parties assert that if gays do represent a significant proportion of the population, it is likely that there will be considerable input from the gay perspective from licensee contact with leaders in the nineteen enumerated categories. Thus, no separate category is thought to be needed.

13. As to the proposal's impact on noncommercial educational television new and renewal applicants, only a few formal comments were filed on their behalf. Ball State University asserts that the proposed amendment reinjects precisely the ambiguity and confusion which the Commission sought to remove in 1976 when it gave public broadcasters clear and definite standards to use in community ascertainment. Ball State further submits that the proposal presents public television licensees with the unpalatable alternatives of diverting substantial resources from programming to a needlessly prolonged ascertainment effort or spending it on needed programming and becoming the subject of meritless petitions to deny. Ball State also states that, as the Commission itself noted in its *Noncommercial Primer*, noncommercial educational broadcasters generally operate under closer financial constraints than commercial licensees.

14. Only a few parties, including the petitioners, filed reply comments in this

proceeding.[10] Petitioners assert that the broadcaster is obligated to program to serve all significant voices in a community, but that he cannot serve those voices unless they are first heard. Unless the Commission's proposal is adopted, it is said, the Commission will be admitting that the communities possess unique and significant community elements, but that in the interest of uniformity and convenience, these elements can be ignored in ascertainment and, thus, in programming. Although broadcasters have argued that they will ascertain significant community elements even if they are not specifically listed on the Checklist, petitioners assert that licensees simply have no incentive to do so. Why should broadcasters, it is asked, willingly devote more time and attention to conducting additional interviews when even the Commission does not consider it important enough to require such interviews.

15. NGTF addresses the often asserted argument that gays probably will be found among the nineteen listed categories and, as a result, that the gay community will be represented. Petitioners respond that these individuals are consulted because they are representative on one of the existing categories and it is their views on this aspect that are being sought. For that reason they question whether such responses can be an adequate substitute even if volunteered by the consulted person. As to the frequent assertion that the terms "significant" and "readily accessible" are unclear and will result in voluminous litigation, petitioners submit that broadcasters in ascertaining community leaders in the nineteen categories representing significant community elements must have gained a facility in determining whether an interest area is of sufficient significance as to require ascertainment. All broadcasters need to do is apply the same standards of significance—*e.g.*, total numbers, influence, distinct character of problems, needs and interests—to any new elements under consideration. As to the term "readily accessible," petitioners submit that it also can be defined by looking at the nineteen categories already on the Checklist. For instance, is an element well-know to the community as are most, if not all, of the nineteen elements? Is an element "in the news?" Is the element part of a current controversy? NGTF contends that although these terms cannot be distilled to some precise, mechanistic definition, the Commission does not seek from its licensees a mechanistic performance, but rather the reasonable exercise of discretion.

16. Petitioners also contend that broadcasters would not need surveys in order to comply with the proposed amendment. According to them, the Commission is not asking applicants to learn any more about the composition of their communities than they already know. It is only asking broadcasters to take advantage of the knowledge within their possession. As to significant elements of which applicants are unaware, the obligation is upon the element, not the applicant, to become initially acquainted. In regard to the noncommercial sphere, MGTF agrees that when coupled with the educational broadcaster's other ascertainment interviews, the marginal cost of these additional interviews may not be *de minimis*. Even so, NGTF questions whether such a requirement would place noncommercial educational broadcasters in financial distress.

17. Addressing yet another of the opponents' contentions, NGTF argues that while it is certainly true that many states do have sodomy laws which have been used to convict homosexuals of committing illegal acts, the status of being a homosexual is not a crime. Extending ascertainment to gay citizens, it is noted, would be affording recognition primarily to an affinity group, not a sexual practice. By recognizing the gay community for what it is—a significant community element—petitioners argue, the Commission would be doing no more than recognizing that many individuals possess the status of gay persons and not endorsing homosexual practices or be placing broadcasters in violation of any state law.[11]

18. Two other parties filed reply comments in favor of NGTF's original proposal. The Gay Activists Alliance argued that under the Commission's proposal, stations would not have an obligation to explain why they did not ascertain the gay community. Thus, the Gay Activists support petitioners' original suggestion which would put the burden of proof on broadcasters to show that they have made good faith efforts to locate the local gay community. The other commenter, Lee Enterprises and Gaylord Broadcasting, in a joint submission, argues that even the presumptive beneficiaries of the Commission's proposal—the gays and the handicapped—prefer the approach broadcasters regard as the more effective solution to the problem, that is expanding the Checklist to include these two elements as categories twenty and twenty-one. However, the National Center for Law and the Deaf submits that failing the addition to the Checklist of a specific category of "handicapped persons," implementation of the proposed amendment would aid it constituency.

Summary of Informal Comments

19. A large number of informal comments have been filed in this proceeding. Those favoring the proposed amendment were private individuals and groups such as the Fresno Human Rights Coalition, the Unitarian Society of Germantown, the Episcopal Church at the University of Pennsylvania, the Franciscan Fathers of St. Joseph's Church at Cerillos, New Mexico, the Philadelphia Gay Task Force and the Gray Panthers. Opponents were also indivduals, broadcasters and groups such as the Wesleyan Hour, the Missionary Church and Anglican Orthodox Church.

20. Of those favoring the proposal, some parties merely make simple statements in support, others offer more extensive statements. Both are from the perspective that "for far too long, homosexuals have been victims of strange social taboos that choke off rational consideration of the gay point of view." Many parties reiterate points made by formal supporters such as that the proposal will aid in destroying sterotypes. Also, a few informal comments recommend the listing of gays as a specific category rather than the adoption of the Commission's proposal. As to those informal comments opposing amendment of the Checklist, a

[10] On January 3, 1979, the National Religious Broadcasters, Inc. (hereafter called "NRB") filed a motion to strike various sections of the reply comments submitted on December 18, 1978, by the National Gay Task Force, petitioners herein. NRB alleges that certain parts of petitioners' pleading should be stricken because they raise new issues rather than respond to issues raised in the previously filed comments. Petitioners filed an opposition on January 16, 1979, to the Motion to Strike arguing that its reply contained no new or counterproposals. We agree. The material objected to, such as an historical development of the Commission's community ascertainment policies, is already in the docket of this proceeding. It appears not only to a large extent in the comments, but also in the originally filed petition, as well as in the first *Notice* released by the Commission. Furthermore, since this is an informal rule making involving broad policy considerations, a great deal more leeway is given as to the scope of comments than in a rule making involving specific allocation of channel frequencies or in adjudicatory proceedings. Accordingly, the Motion will be denied.

[11] A number of other commenting parties state in reply that relatively little of the programming desired by gay citizens can be properly interpreted as a political statement on behalf of repealing sodomy laws. More than anything else, it is argued, gays need programming that will depicit them in non-stereotypic fashion.

substantial number vehemently express their disagreement with the proposal that the needs of the gay community be ascertained. Many of these filings appear to be form letters. Typical of such submissions is the following statement: "I can think of nothing more threatening to the moral well being of this nation than this proposal."

Discussion

21. After studying the record of this proceeding, we have concluded that the proposal, in a modified form, should be adopted for commercial television renewal applicants and noncommercial television applicants and, on an interim basis only, for commercial radio renewal applicants. Those changes will be set out in the course of the following discussion.

22. The purpose of ascertainment is to have the licensee become familiar with the needs and interests of the community so that these needs and interests can be reflected in the station's programming. To this end the Commission has developed a Checklist for use in the ascertainment effort. It lists 19 elements thought to be common to most communities and applicants are expected to contact representatives of each of these categories. Although there is a 20th category called "Other," applicants are not specifically required to go beyond the list of 19. In general terms the *Notice* approach was to call upon applicants to consult with significant elements in the community even if not on the Checklist. Nothing in the record suggests that the premise is an inappropriate one. We remain convinced that contacts with significant elements are important and that this should remain our focus. Petitioners suggested one approach, the Commission suggested a variation, and filing parties have offered their suggestions. Which approach to follow is the product of our examination of the practical consequences of each and the value they offer to the ascertainment process.

23. Most of the commenting parties disagree with the proposal as outlined in the *Notices*. However, for the most part, we do not find their arguments compelling. We do not think it is either necessary or preferable to add the categories of gay and handicapped persons to the Checklist in order to insure that the needs of these elements are ascertained and the predictability and stability of the Checklist be preserved. The Checklist was provided to lend greater certainty to the survey coverage of a community. Complete certainty is not possible in matters such as this. Further, the listed categories are socio-economic elements thought common to most communities. Since the record evidence does not indicate that gay and handicapped persons are significant in all or most communities, we believe it more appropriate to modify the language of the "Other" category than to add two new elements to the Checklist. Of further significance, our proposal will allow for the ascertainment of the needs of emerging elements which, at least at their outset, probably will not have an across-the-board significance.

24. As to the issue of predictability, we note that nothing has changed our minds as to the value of the Checklist in providing certainty for the ascertainment procedure. In order to provide programming addressing the problems of their communities, however, broadcasters need to know their service areas. We believe this is best accomplished by ascertaining all significant elements, whether or not they are one of the nineteen enumerated categories. Rather than returning to the pre-1976 era, when commercial renewal broadcast applicants were required to determine the composition of the community and select for consultations those community leaders that reflected that composition, we believe that the present Checklist structure, slightly modified, can offer both certainty and flexibility. Given this, it appears that our original proposal, which indicates that broadcasters are obligated to contact all significant elements which are "readily accessible" within their community of license, is inadvisable. We have come to believe that the term "readily accessible" is not only unnecessarily ambiguous but would destroy the certainty provided by the checklist approach. Instead, we believe it is preferable to follow a procedure which provides the necessary certainty and which avoids ambiguity and confusion. This can be accomplished by using an approach which calls upon the non-listed element to come to the licensee so that it can decide if the element in fact is significant. Then, once a non-listed element has been brought to a broadcaster's attention and the broadcaster has decided that indeed the element is significant, it would be the licensee's responsibility during future community ascertainment surveys to contact representatives of that element provided that it has remained significant. We believe that this modification recognizes a legitimate broadcaster concern without subtantially burdening those "other" significant community elements which now must be ascertained. The proposal as adopted essentially meets petitioners' needs while creating little, if any, burden on broadcasters.

25. We find little merit in the remaining objections to the proposal's adoption. As to the term "significant" being vague and resulting in voluminous litigation, ample case law on the subject and pre-1976 experience will aid broadcasters in determining which "other" elements contacting them are significant. Any element or institution which claims significance need not be included in the ascertainment study unless the broadcaster confirms the fact that indeed the element is significant. In making this determination, he should be guided by, among other things, the total numbers comprising the element or institution, the influence of an element and the distinct character of the element's needs and interests. Any system has a degree of uncertainty. However, we believe that this uncertainty has been reduced to the extent possible while at the same time providing a meaningful opportunity for improving ascertainment procedures. Our proposal as modified provides, in our view, an optimum solution, that is certainty with flexibility.

26. Opponents also argue that the proposal is unnecessary since gay and handicapped persons are not being ignored in the ascertainment process.[12] If this is an accurate portrayal of events, then it should make little difference to broadcasters if the proposal mandating the ascertainment of significant other elements is adopted. If the needs of these elements are already ascertained, then no additional effort need be taken by broadcasters performing in this manner. In those situations where this is not the case, however, our proposal will insure ascertainment of all significant elements whether or not they are one of the nineteen categories appearing on the Checklist. Additionally, we cannot agree with the contention that if gays are, in fact, a significant proportion of the population [13] their views will be made

[12] The "other" category is being employed to some degree by broadcasters in preparing their community leader surveys. Very rarely is there any indication, however, which elements or institutions are represented by those "other" interviews. Nor is it apparent from the material submitted in applications that the needs of gays and handicapped persons are ascertained under categories twelve and seventeen of the Checklist when these elements are significant.

[13] Under the approach we are adopting, any group (gay or otherwise) feeling itself to be significant is asked to approach the licensee and to demonstrate that this is the case. We have not singled out the gay community in this regard, nor need we pass on the moral or legal questions which have been raised by parties regarding state laws dealing with homosexual acts. It is not the Commission's function to enforce criminal sanctions nor is it

Footnotes continued on next page

known during the survey of listed community elements. This argument misses the point of the community leader survey, which is to ascertain the needs of community elements by interviewing their leaders from each element's particular perspective. For instance, a leader of the agricultural community who happened to be handicapped, is expected to focus on agricultural concerns and not those of the handicapped.

27. Although the above discussions of the proposal is applicable to noncommercial educational television applicants, as well as commercial broadcast radio and television renewal applicants, we wish to address ourselves to one particular concern expressed by noncommercial commenters. In response to their argument that public television licensees would be required by the Commission's proposal to invest tremendous amounts of time and spend scarce public funds which could be used more constructively for responsive programming, we note that programming cannot be responsive unless the community of license is adequately ascertained. In other words, the needs and interests of all significant segments of a community should be taken into account by the broadcaster in fulfilling his public trustee programming responsiblities. Further, we believe that by modifying the proposal, that is requiring other elements believing themselves to be significant to initially contact the applicant, whatever additional resources will be needed for ascertainment probably will be minimal. Moreover, formal ascertainment procedures are only required of noncommercial educational television applicants and not noncommercial educational radio applicants who are less able to bear the financial costs incurred by specific ascertainment procedures.

28. We note our statement in the *Noncommercial Primer* that the rules for noncommercial education broadcasters need not be the same for radio and television. We therein recognized that the educational radio service was not nearly as developed as its television counterpart, and thus different ascertainment requirements were imposed on these two services. We now also perceive differences between commercial radio and television which may be significant from a regulatory perspective. The Commission is therefore reviewing the existing scope of radio regulation in the rule making proceeding mentioned above. We are then considering whether, given the multiplicity of radio oulets, the public interest in programming diversity would be better implemented by allowing individual radio stations to seek to serve a segment of the total market which has an interest in a particular type of programming. This approach would appear to be inconsistent with a requirement that each licensee must ascertain and serve all elements of the community and, if adopted, could mandate removal of the ascertainment requirements currently imposed on radio broadcasters, including the modifications adopted today.

29. Accordingly, it is ordered, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, That §§ 73.3526(a)(11) and 73.3527(c)(v) of the Commission's rules, the *Primer on Ascertainment of Community Problems by Commercial Broadcast Renewal Applicants* and the *Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants* and Instructional Pamphlet for FCC Form 303–R (Application for Renewal of License for Commercial AM or FM Radio Broadcast Station) are amended, effective July 7, 1980, as described above and set forth in the attached Appendices A, B and C. The reporting requirement included herein is adopted subject to GAO clearance and, unless advised to the contrary, will be effective July 7, 1980.

30. *It is further ordered,* That the Motion to Strike filed by the National Religious Broadcasters is denied.

31. *It is further ordered,* That this proceeding is terminated.[14]

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

Federal Communications Commission.

William J. Tricarico,[15]

Secretary.

Appendix A

1. Section 73.3526(a)(11)(v) and the flush paragraph which follows it are revised to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) * * *

* * * * *

(11) Each licensee or permittee of a commercially operated radio or TV station (except as provided in Note 2, below) shall place in the station's public inspection file appropriate documentation relating to its efforts to interview a representative cross-section of community leaders within its service area to ascertain community problems and needs. Such documentation shall be placed in the station's public inspection file within a reasonable time after the date of completion of each interview but in no event later than the due date for filing the station's application for renewal of license and shall include:

(i) * * *

* * * * *

(v) for interviews conducted by non-principals or non-managers, the date of review of the interview record by a principal or management level employee of the station.

Additionally, upon the filing of the application for renewal of license each licensee shall forward to the FCC as part of the application for renewal of license a checklist indicating the numbers of community leaders interviewed during the current license term representing the several elements found on the form; provided that, if a community lacks one of the enumerated institutions or elements, the licensee or permittee should so indicate by providing a brief explanation on its checklist. The licensee or permittee should also indicate the number of leaders, if any, it has interviewed in the other category.

* * * * *

2. Section 73.3527(c)(1)(v) and the flush paragraph which follows it are revised to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

(a) * * *

* * * * *

(c) * * *

(i) * * *

* * * * *

(v) For interviews conducted by non-principals or non-managers the date of review of the interview record by a principal or management-level employee.

Additionally, upon the filing of the application for renewal of license each licensee shall forward to the FCC as part of the application for renewal of license and each licensee and permittee shall place in the station's public inspection file, a checklist indicating the

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appropriate for it to regulate morality. However, it is important to bear in mind that laws dealing with homosexual conduct do not make it a crime to be a homosexual. Indeed, penalizing persons for their status rather than their conduct is constitutionally impermissible. See *Robinson* v. *California* 370 U.S. 660 (1962). Therefore, we believe that it would be improper to exclude the gay community from the ascertainment process where it is significant.

[14] This final *Order* terminates this proceeding, but the action taken herein will not be effective until completion of the GAO clearance process.

[15] See attached Separate Statement of Chairman Ferris.

number of community leaders interviewed during the current license term representing elements found on the sample Community Leader Checklist (see *Ascertainment of Community Problems by Broadcast Renewal Applicants*, 41 FR 1372, 1384 (1976)); provided that, if a community lacks one of the enumerated institutions or elements, the licensee and permittee should so indicate by providing a brief explanation on its checklist. The licensee and permittee should also indicate the number of leaders, if any, they have interviewed in the other category. The same rules apply to applicants for other than renewal of license except that the checklist for an ascertainment of community leaders shall reflect information obtained within six months prior to filing and shall be placed in the public file no later than the time the application is filed.

* * * * *

Appendix B

1. In the *Primer on Ascertainment of Community Problems by Commercial Broadcast Applicants*, paragraph 19 is revised to read as follows:

* * * * *

19. Among the commenters' suggestions we shall adopt are: (a) Alphabetical listing of the elements; and (b) inclusion of a separate reporting category for women (the numbers of leaders contacted in all elements who are women) matching that for minorities. We have also included a category, "Other." This latter addition is intended to provide for elements not on the Checklist but peculiar to a given community, which the licensee must interview if (a) the licensee is contacted by such elements and (b) determines that they are significant. It is the licensee's responsibility during future ascertainment surveys to contact representatives of these other elements if the licensee believes they have remained significant. If a licensee conducts interviews in all Checklist categories that apply in its community and is not contacted by other significant elements, its coverage of all significant elements will not be questioned. Whether the interviews performed in each element actually establish representatives would depend not only on coverage, but on such above-mentioned factors as size and/or influence of these elements in the community. See discussion of numbers at paragraph 25, *infra*.

* * * * *

2. In the *Primer on Ascertainment of Community Problems by Commercial Broadcast Renewal Applicants*, Questions 5, 7, 8 and 19 are revised to read as follows:

Question 5. Must a compositional study of the community be conducted?

* * * * *

Answer. A special compositional study of the community need not be conducted. We have identified typical community institutions and elements normally present in most communities and we expect the licensee to utilize this listing in conducting its community leader survey. (See Question and Answer 7, below.) We recognize that all communities are not the same and that other significant institutions or elements may be indigenous to a particular community. These other elements must be ascertained (a) if their leaders or representatives contact a licensee; and (b) the licensee determines that these elements are significant. It is the licensee's responsibility during future ascertainment surveys to contact representatives of these "other" elements if the licensee believes they have remained significant. However, if no other significant element initiates contact a licensee's coverage of all significant elements will not be open to question if it interviews a representative sample of leaders from among the elements in this listing that apply to its community.

* * * * *

Question 7. What community leaders should be consulted?

* * * * *

Answer. The community leaders consulted should constitute a representative cross-section of those who speak for the interests of the service area. This requirement may be met by interviews within the following institutions and elements commonly found in a community: (1) Agriculture; (2) Business; (3) Charities; (4) Civic, Neighborhood and Fraternal Organizations; (5) Consumer Services; (6) Culture; (7) Education; (8) Environment; (9) Government (local, county, state and federal); (10) Labor; (11) Military; (12) Minority and ethnic groups; (13) Organizations of and for the Elderly; (14) Organizations of and for Women; (15) Organizations of and for Youth (including children) and Students; (16) Professions; (17) Public Safety, Health and Welfare; (18) Recreation; and (19) Religion. A licensee is permitted to show that one or more of these institutions or elements is not present in its community. However, a licensee must utilize the "other" category to interview leaders in elements not on the Checklist once the licensee is contacted by such elements and determines that they are significant. It is the licensee's responsibility during future ascertainment surveys to contact representatives of these elements if the licensee believes they have remained significant.

Question 8. If a licensee interviews in all of the above categories will the licensee be considered to have contacted all the significant groups in its community?

* * * * *

Answer. The Checklist is thorough enough for most communities and yet not overly detailed. Interviews in all of its elements will establish the requisite coverage of significant community groups if a licensee is not contacted by any "other" element the licensee determines to be significant. Whether this coverage is also representative will depend on such factors as number of interviews in each element, size and influence of that element in the community, etc. A licensee is permitted to show that one or more of these categories is not present in its community but it must interview leaders of other elements once the licensee is contacted by such elements and determines that they are significant.

* * * * *

Question 19. What documentation relating to the community leader interviews must be submitted with the station's application for renewal of license?

* * * * *

Answer. Upon the filing of an application for renewal of license, the licensee must certify that the documentation noted in Question and Answer 18, above, has been placed in the station's public inspection file at the appropriate times. Additionally, the licensee must submit as part of its renewal application a checklist indicating the number of community leaders interviewed during the license term in the enumerated categories set forth at Question and Answer 7 above. If one or more of the institutions or elements is not present in the community, a brief explanation must be included with the checklist. The licensee should also indicate the number of leaders, if any, it has interviewed in the other category.

* * * * *

3. In the *Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants*, paragraph 39 is revised to read as follows:

* * * * *

As to the selection of community leaders in a fashion that will represent the community, we believe that the Checklist proposed in the *Further Notice* in this docket—and, again, actually adopted for triennial filing in Docket 19715 for commercial renewals—is sufficiently comprehensive to embrace not only those cultural and "life-enriching" interests which CPB sees as the special province of educational broadcasting (Para. 12, *supra*) but also those traditional sources of opinion about problems and needs that no broadcaster wishing to serve its community should ignore. Whether a Checklist would tend to reflect majority preferences is not relevant. We are not suggesting that licensees program only to those needs that receive the greatest Checklist response. Ascertainment is merely a vehicle for determining the problems, needs and interests of the licensee's service area. The licensee, of course, has broad discretion in determining which needs it proposes to serve. We specifically have considered requests that we add the elements "media" and "handicapped" to the Checklist. We shall decline to do so. These groups may qualify as significant in some cities, and even be subsumable under elements presently found on the Checklist. In any event, a licensee must utilize the "other" category to interview leaders in elements not on the Checklist if the licensee is contacted by such elements and determines that they are significant. It is the licensee's responsibility during future ascertainment surveys to contact representatives of these other elements if the licensee believes they have remained significant. In a related matter, Temple University suggested that we permit programming material presented on Subsidiary Communications Authorizations (SCA), (see 47 CFR 73.593 *et seq.*) to qualify

as meeting local needs. We recognize that such offerings often greatly assist the visually handicapped.[12] They are presently authorized, however, only as ancillary to the main broadcast service, and thus ought not be mingled in our evaluation of the main service. (Footnote omitted.)

Appendix C

1. In the Instructional Pamphlet For FCC Form 303–R (Application for Renewal of License for Commercial AM or FM Radio Broadcast Station), Question 12 is revised to read as follows:

* * * * *

Question 12. As a part of its renewal application (Exhibit No. 12), the licensee must forward to the Commission a checklist indicating the numbers of community-leaders interviewed during the current license term representing the following institutions and elements common to most communities.

(1) Agriculture
(2) Business
(3) Charities
(4) Civic, Neighborhood and Fraternal Organizations
(5) Consumer Services
(6) Culture
(7) Education
(8) Environment
(9) Government (local, county, state and federal)
(10) Labor
(11) Military
(12) Minority and ethnic groups
(13) Organizations of and for the elderly
(14) Organizations of and for women
(15) Organizations of and for youth (including children) and students
(16) Professions
(17) Public Safety, Health and Welfare
(18) Recreation
(19) Religion
(20) Other

The licensee should also indicate therein the number of leaders interviewed in the above elements who are (a) Blacks not of Hispanic origin; (b) Hispanics; (c) American Indians or Alaskan natives; (d) Asian of Pacific Islanders; and (e) Women.

Where one or more of the aforementioned institutions or elements is not present in its community, the licensee should so indicate by providing a brief explanation in Exhibit No. 12. The licensee also should utilize the "Other" category to interview leaders in elements not on the Checklist if (a) the licensee is contacted by such elements and (b) determines that they are significant. It is the licensee's responsibility during future ascertainment surveys to contact representatives of these other elements if the licensee believes they have remained significant. A sample checklist follows Part IV of this pamphlet. If used in responding to this question, it should be completed in the manner described in *Exhibit Identification, supra.*

A commercial radio broadcast station located in a community with a population of 10,000 or less that is not within a Standard Metropolitan Statistical Area is exempt from the submission of a community leader checklist. An applicant seeking to renew the license for such a station should therefore indicate the inapplicability of Question 12 by checking the box entitled "DOES NOT APPLY."

Appendix D—Parties Filing Comments

ACLU Gay Rights Chapter*
Ammann, Jack, Jr.*
American Broadcasting Companies, Inc.
Atlanta Lesbian Feminist Alliance*
Ball State University
Bell, J. Paul
Bonneville International Corp.
Broadcast Financial Management Association
Columbia Broadcasting System, Inc.
California Association of the Physically Handicapped, Inc.
Christian Broadcasting Network, Inc.
Commonwealth of Pennsylvania, Department of Justice
Community Activities Coordinator for University of South Florida
Consumers Protection Institute, *et al.*
COSD Deaf Media Committee
Dignity/Chicago
Epilepsy Foundation of America
Fort Wayne Bible College
Gay Activists Alliance
Gaylord Broadcasting Co. and Lee Enterprises
Georgia Association of Broadcasters
Greater Media, Inc.
Group One Broadcasting Co.
Hart-Hanks Southern Communications, Inc. and Basic Media, Ltd.
Jesup Broadcasting Corporation
Johnson, Elmer W.
KEZY Radio, Inc.
Klingensmith, Thelma H.
Marschner, Mary and William
Maturity
McCarty, Henry R.
Metromedia, Inc.
National Association of Broadcasters
National Broadcasting Company, Inc.
National Center for Law and the Deaf
National Media, STOP E.R.A., Eagle Forum
National Radio Broadcasters Association
National Religious Broadcasters, Inc. and Midwest Chapter
Nebraska Broadcasters Association
New Jersey Public Broadcasting Authority and Community Television, Inc.
Office of Communications for United Church of Christ
Seeley, Larry C.
Streator Broadcasting Corporation
Sweeny, Carol*
The Word Today
Utah Congress for Educational Excellence
WMHT
WMPC
Women for Responsible Legislation
Women to Rescind the ERA
Wright, Janice S.*

Parties Filing Reply Comments

Gay Activists Alliance
Gaylord Broadcasting Company and Lee Enterprises
National Center for Law and the Deaf*
National Gay Task Force
Wheaton, Robert G.**
March 12, 1980.

Separate Statement of Charles D. Ferris, Chairman

Re: Amendment of the Primers on Ascertainment of Community Problems (Report and Order in Docket No. 78–237)

Today's action does not impose undue additional regulatory burdens on broadcasters. It simply clarifies the FCC's existing Ascertainment *Primers* to help broadcasters and community leaders alike determine what satisfactory ascertainment comprises. Ever since the FCC explicitly recognized the need for broadcast licensees to ascertain community members to formulate programming "in the public interest," it has struggled to articulate that obligation with sufficient clarity to satisfy the desires of both sides of the process.

No one, I believe, seriously questions the need for a broadcaster to maintain contact with what its community desires and needs. The disagreement is only as to the lengths broadcasters must go to canvas the community, as well as in the degree of necessary record-keeping of that process.

Today's decision takes account of both potential benefits of the ascertainment process and the potential pitfalls of its becoming an empty, paper-pushing process. Groups that do not fall into the previously identified categories must come forward before broadcasters will be charged with a need to ascertain them as significant portions of the community. Moreover, the applicant for a license will be the one to make the initial determination whether that group is in fact significant. Once these steps have been taken, however, the group becomes part of the applicant's community for ascertainment and for broadcast service, so long as it remains a significant community element.

As new communities of interest within our geographical communities emerge broadcasters need to recognize these changes. Today's action in effect does no more than bring our ascertainment process in line with this fact. I believe that the Commission could have adopted today's *Primer* changes without a notice and comment period, proceeding by means of a Public Notice. In order to afford maximum opportunity for input by interested parties, however, the Commission chose to issue a *Notice of Proposed Rule Making.*[1]

*The comments marked with an asterisk were late filed but since their consideration is not prejudicial to any party and their lateness for the most part did not exceed a few days, we have decided to consider them in this proceeding.

**Although titled comments, we believe that Robert G. Wheaton intended his filing to be considered reply comments and consequently we will consider them as such.

[1] 43 FR 35357 (1978).

Our action today does acknowledge that groups constituting significant elements in the community—handicapped, gays, new immigrant arrivals such as the Vietnamese in some areas—are part of our diverse American people. Whether wealthy or impoverished, politically powerful or weak, they deserve to be heard. That is the essence of the American system.

Today's action adopts these ascertainment guidelines for radio on an interim basis only, in light of our ongoing radio deregulation proceeding, which looks in part to further modification or elimination of the Ascertainment *Primer* for radio stations. In that proceeding, on which the first round of comments are due in a few weeks, we will be looking in greater depth into the applicability of our ascertainment guidelines to the radio, as opposed to television, marketplace.

[FR Doc 80-10378 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket 79-326; RM-3305; RM-3341]

FM Broadcast Station in Fayette, Miss.

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns FM Channel 249A to Fayette, Mississippi, as that community's first FM assignment, in response to a petition filed by Fayette Broadcasters. The assigned channel to Fayette will provide that community with its first local aural broadcast service.

EFFECTIVE DATE: May 12, 1980.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fayette and Port Gibson, Mississippi) (BC Docket No. 79-326, RM-3305, RM-3341): Report and order; Proceeding Terminated.

Adopted: March 25, 1980.

Released: April 2, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration its *Notice of Proposed Rule Making*, adopted December 10, 1979, 44 FR 75418, in reponse to two separate petitions filed by Donald G. Manuel ("Manuel"), proposing Channel 249A to Port Gibson, Mississippi, and Fayette Broadcasters ("FB"), proposing the same channel for Fayette, Mississippi. The proposals are mutually exclusive because the communities are only 32 kilometers (20 miles) apart versus the required spacing of 104 kilometers (65 miles). Although the *Notice* proposed the assignment of Channel 249A to either Port Gibson or Fayette, we indicated that Fayette should be favored since Port Gibson already has local service from Station WRPG(AM), daytime-only. Additional support for the Port Gibson assignment was requested. Supporting comments were filed by FB reaffirming its intention to file for the channel in Fayette, if assigned. Manuel filed comments in which he stated that since a showing of continuing interest has been shown by FB in the assignment to Fayette, he does not oppose the assignment of Channel 249A to that community. Therefore, on the basis that the needed supporting information was not provided, we shall give no further consideration to the Port Gibson proposal.

2. Fayette (pop. 1,725),[1] seat of Jefferson County (pop. 9,295), is located approximately 32 kilometers (20 miles) south of Port Gibson. It has no local aural broadcast service. FB has submitted sufficient information persuasive as to Fayette's need for an FM assignment. We believe it would be in the public interest to make this assignment since it would provide Fayette with its first local aural broadcast service.

3. In view of the foregoing, it is ordered, That effective May 12, 1980, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, is amended to read as follows:

City	Channel No.
Fayette, Mississippi	249A

4. 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.

5. *It is further ordered,* That the petition filed by Donald G. Manuel proposing the assignment of FM Channel 249A to Port Gibson, Mississippi, is denied.

6. *It is further ordered,* That this proceeding is terminated.

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

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

(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. 80-10380 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-325; RM-3444]

FM Broadcast Station in Bernalillo, N. Mex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns Channel 269A to Bernalillo, New Mexico, as that community's first FM assignment, in response to a petition filed by RFC Partners. The proposed assignment could provide for a first local aural broadcast service to the community.

EFFECTIVE DATE: May 12, 1980.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Bernalillo, New Mexico) (BC Docket No. 79-325, RM-3444) Report and order; Proceeding Terminated.

Adopted: March 25, 1980.

Released: April 2, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, adopted December 10, 1979, 44 Fed. Reg. 75683, in response to a petition filed by RFC Partners ("petitioner"), which proposed the assignment of FM Channel 269A to Bernalillo, New Mexico. Supporting comments were filed by petitioner in which it stated it will promptly apply for the channel, if assigned.

2. Bernalillo (pop. 2,016)[1] seat of Sandoval County (pop. 17,492), is located in central New Mexico, approximately 27 kilometers (17 miles) north of Albuquerque, New Mexico, and 72 kilometers (45 miles) south of Santa Fe.

3. Petitioner states that, according to the current Population Reports, U.S.

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

Department of Commerce, Bernalillo had a 24% population increase between 1970–1976. Petitioner has submitted information with respect to Bernalillo which is persuasive as to its need for a first FM assignment.

4. The Commission believes it would be in the public interest to assign Channel 269A to Bernalillo, New Mexico. The channel would provide for a first local aural broadcast service to the community and to Sandoval County. The assignment can be made in conformity with the minimum distance separation requirements.

5. Accordingly, it is ordered, That effective May 12, 1980, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, is amended with respect to the community listed below as follows:

City	Channel No.
Bernalillo, New Mexico	269A

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

7. It is further ordered, That this proceeding it 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. 80-10379 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-75; RM-3161]

FM Broadcast Stations in Ponce, Puerto Rico and Charlotte Amalie, Virgin Islands; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns Class C Channel 266 to Ponce, Puerto Rico, substitutes Channel 226 for Channel 266 at Charlotte Amalie, Virgin Islands, and modifies the license of the Charlotte Amalie station to specify operation of the substituted Class C channel.

EFFECTIVE DATE: May 5, 1980.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ponce, Puerto Rico, and Charlotte Amalie, Virgin Island) BC Docket No. 79–75, RM–3161, Report and order proceeding terminated.

Adopted: March 13, 1980.
Released: April 2, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it the *Notice of Proposed Rule Making* (44 FR 30168, released April 6, 1979), which proposed the assignment of Class C Channel 266 to Ponce, Puerto Rico, as its fourth FM assignment and the substitution of Channel 226 for Channel 266 at Charlotte Amalie, Virgin Islands. Comments were filed in response to the *Notice* by the petitioner, Radio Stereo Ivanhoe ("petitioner"), Ponce Broadcasting Corp. ("Ponce B/C"), licensee of Stations WLEO (AM) and WZAR (FM) Ponce, and Radio Virgin, Inc. ("RVI"), licensee of FM Channel 266, Charlotte, Amalie, Virgin Islands. Reply comments were filed by petitioner, by Ponce B/C and by Voice of Puerto Rico, Inc. ("WIOC"), licensee of FM Station WIOC, Ponce.[1]

2. Ponce (pop. 128,233) [2], is located on the south shore of Puerto Rico, approximately 74 kilometers (46 miles) southwest of San Juan. Ponce is served locally by five fulltime commercial AM stations (WISO, WLEO, WPAB, WPRP and WZBS); an educational AM station (WEUC); and three FM stations (WPAB (Channel 227); WZAR (Channel 270); and WIOC (Channel 286)).

3. The *Notice* proposed a fourth FM assignment to Ponce which, according to our population criteria, does not have its full complement of assignments (4 to 6 channels for population of 100,000 to 250,000). RVI, licensee of the affected Charlotte Amalie station was requested to respond to our proposal to modify its license to specify a different Class B channel for which it was entitled to reimbursement for reasonable expenses.

4. Petitioner, in its comments, restated its interest in the proposed Ponce assignment, and reaffirmed its commitment to reimburse RVI for its change in frequency.

5. RVI responded by withdrawing its previous position in opposition to the proposed modification of its license on the assumption that the successful applicant for Channel 226 in Ponce will be required to reimburse RVI for all reasonable expenses incurred in the change from Channel 226 to Channel 266. RVI also asks that it be required to initiate the steps looking to the change of frequency no earlier than 30 days, and that it be required to change frequency no earlier than 90 days after the date on which grant of a permit to construct the new Ponce station is no longer subject to administrative or judicial review. Ivanhoe, in reply comments, does not object to these requests.

6. Ponce B/C states opposition to the additional Ponce assignment because it believes that Ponce is already adequately served by existing stations. It argues, in this regard, that due to the state of the economy of Ponce, an additional station will be harmful to the poor financial base available to the existing broadcast media at Ponce, citing declines in employment and only modest increases in per capita income. Ponce B/C has also brought to our attention an incorrect reference in the *Notice* to the proposed assignment as being Class C. Ponce B/C is correct that the designation should be Class B.

7. In reply comments, petitioner suggests that the assertions of Ponce B/C that another FM station could be economically harmful to existing stations is a matter more appropriately considered in a hearing context.[3] Ponce B/C, for its part, restates the harmful effects it foresees to the economic outlook of existing stations which must accept another competitor. WIOC's reply comments agree substantially with those of Ponce B/C as they pertain to the economic impact and the Commission's error in referring to Channel 266 as a Class C channel. One other point raised is the charge that RVI withdrew its objection to the proposed switch in its frequency to what must have been an offer of compensation from the petitioner.

8. Petitioner responded to this charge by urging the Commission not to consider it because it was not timely raised. If considered, petitioner asserts that there is no evidence of enticement to RVI and petitioner's expression of compensation is in accordance with

[1] Petitioner submitted a Motion to Strike or, in the Alternative, Motion for Leave to File Further Reply and Further Reply" concerning new matters allegedly raised in the reply comments of WIOC to which WIOC filed an opposition and petitioner submitted a reply. We have considered these pleadings herein at paragraphs 8 and 10.

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

[3] Petitioner cites *Rome, New York*, Dkt. 20863, 43 FR 10343, 42 RR 2d 618 (1978); *Ogalalla, Neb.*, Dkt. 20070, 41 FR 23955, 37 RR 2d 627 (1976); *Healdsburg, Cal.*, 52 F.C.C. 2d 244 (1975) and *Naples, Fla.*, 49 F.C.C. 2d 1266 (1974).

Commission requirements for reimbursement of channel changes. WIOC responded that petitioner's response is untenable because, as a procedural matter, only a counterproposal would have been untimely, not a reply to matters raised initially in comments, as it has done.

9. Channel 266 can be assigned to Ponce without causing any new preclusion. The assignment of Channel 226 to Charlotte Amalie will not cause significant preclusion since the only communities affected already have AM and FM stations.

10. The assignment of Channel 266 to Ponce can be made in conformity with the minimum distance separation requirements, if the Charlotte Amalie substitution is made. The transmitter site for the Ponce station must be located at least 4.8 kilometers (3 miles) west of Ponce. We believe the Ponce assignment is warranted. The requested assignment would provide for a fourth FM station to a community whose population falls within our guidelines for that number of assignments. The objections concerning competitive impact are, as stated by petitioner, more appropriate for disposition at the application stage. As to reimbursement, RVI is entitled to reimbursement for the frequency change to Channel 226. As requested by RVI, it would not have to switch until the construction permit issued for the Ponce station has become final. Finally, as to WIOC's charge of additional compensation, we have been given no basis, other than WIOC's suspicion, for making such a finding. We do not agree that RVI's consent must have been motivated by financial enticement because the consent request was more of a formality than an important factor to our decision on the merits here.

11. In view of the foregoing, and pursuant to authority 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, it is ordered, that effective May 5, 1980, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules is amended with respect to the following communities:

City	Channel No.
Ponce, Puerto Rico	227, 266, 270, 280
Charlotte Amalie, Virgin Islands	226, 250

12. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license of WCRN (FM), Radio Virgin, Inc., Charlotte Amalie, Virgin Islands, is modified, effective May 5, 1980, to specify operation on Channel 226 instead of Channel 266. The licensee shall inform the Commission in writing no later than May 5, 1980, of its acceptance of this modification. Station WCRN (FM) may continue to operate on Channel 266 until a construction permit is issued for the Ponce channel subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 226, the licensee of Station WCRN (FM) shall submit to the Commission the technical information normally requested of an applicant for Channel 226.

(b) At least 10 days prior to commencing operation on Channel 226, the licensee of Station WCRN (FM) shall submit measurement data required of an applicant for a broadcast license; and

(c) The licensee of Station WCRN (FM) shall not commence operation on Channel 226 without prior Commission authorization.

13. It is further ordered, That the Motion to Strike filed by Radio Stereo Ivanhoe, is denied.

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

15. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-10381 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 76

Editorial Amendment Relative to the Carriage of Sports Program on Cable Television Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein deletes Appendices A and B of § 76.67 (Sports Broadcasts) of Part 76 of Chapter I of Title 47 of the Code of Federal Regulations which were inadvertently included in the text of the rule and were originally attached for informational purposes only.

EFFECTIVE DATE: April 8, 1980.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Bailey, Cable Television Bureau (202) 632-6468.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 76.67 of Part 76 of Chapter I of Title 47 of the Code of Federal Regulations Relative to the Carriage of Sports Programs on Cable Television Systems.

Order

Adopted: March 24, 1980.

Released: March 28, 1980.

1. On July 22, 1975, the Commission issued its *Report and Order in Docket 19417*, FCC 75-819, 54 FCC 2d 265 (1975), in which it adopted § 76.67 of the Commission's rules and regulations which imposed restrictions on the carriage of sports programs on the signals of distant television broadcast stations by cable television systems. Appendices A and B of this *Report and Order* contained the texts of Pub. L. 87-331 (as amended) (Telecasting of Professional Sports Contests) and Pub. L. 97-107 (Broadcast of Games of Professional Sports Clubs) which were included as an attachment only for informational purposes. Appendix C of this document contained the actual amendments, specifically newly-adopted § 76.67, to Part 76 of the Commission's rules and regulations. In the process of incorporating § 76.67 in Part 76 of Chapter I of Title 47 in the Code of Federal Regulations, Appendices A and B, as described above, were inadvertently included under § 76.67 even though these appendices were not part of the Commission's rules and regulations. Their inclusion in the Code of Federal Regulations appears to have been an oversight in the printing process and, accordingly, should be deleted from the Code of Regulations.

2. In view of the foregoing and under the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, § 76.67 in Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended by deletion of Appendix A and Appendix B. Since this amendment is editorial in nature, the prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are therefore inapplicable.

3. In view of the above, it is ordered, Section 76.67 (Sports Broadcasts) of Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended by the deletion of Appendix A and Appendix B, effective April 8, 1980.

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

Federal Communications Commission.

R. D. Lichtwardt,

Executive Director.

[FR Doc. 80-10438 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

Participation by Minority Business Enterprise in Department of Transportation Programs

Correction

In FR Doc. 80-9859, appearing on page 21172, in the issue of Monday, March 31, 1980 make the following correction:

On page 21172, first column, in the *"Dates:"* paragraph the date in the first line should have read "April 30, 1980", and the date in the third line should have read "April 30, 1981".

BILLING CODE 1505-01-M

Research and Special Programs Administration

49 CFR Part 192

[Amdt. 192-35A; Docket No. PS-52]

Transportation of Natural and Other Gas by Pipeline; Separately Protected Service Lines

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Final rule.

SUMMARY: A final rule was published (Amdt. 192-35; 44 FR 75384 December 20, 1979) establishing requirements for testing, on a sampling basis, cathodic protection on short sections of transmission lines. That final rule unintentionally altered the requirement for testing cathodic protection on separately protected service lines. This amendment reinstates the original requirement, which allowed separately protected service lines, regardless of their length, to be tested on a sampling basis if annual tests are impractical.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow on (202) 426-2392.

SUPPLEMENTARY INFORMATION: On August 28, 1978, MTB issued a notice of proposed rulemaking to amend the cathodic protection monitoring requirements of § 192.465(a) (43 FR 39401, September 5, 1978). The purpose of the notice was to invite comments on a propsoal to allow transmission line sections that are impractical to monitor annually to be monitored by the sampling procedure applicable to service lines and mains.

The language of the proposal read: "However, if tests at those intervals are impractical for separately protected service lines or short sections of protected mains and transmission lines, not in excess of 100 feet, these pipelines may be surveyed on a sampling basis." (The proposal merely would have added the words "and transmission lines," immediately after the word "mains" in the original rule.) In Amendment 192-35, this proposed language was changed to read: "However, if tests at those intervals are impractical for separately protected sections of pipeline not in excess of 100 feet, these pipeline sections may be surveyed on a sampling basis." This language change was intended merely to clarify that the phrase "not in excess of 100 feet" in the original rule applied to service lines as well as mains. The change appeared justified by the plain meaning of the original rule, and it did not appear that any contrary interpretation had been made.

Following adoption of Amendment 192-35, MTB has received letters and petitions from several interested persons pointing out that ever since the issuance of section 192.465(a) (Docket No. OPS-5, 36 FR 12302, June 30, 1971), the gas industry has been permitted to monitor separately protected service lines that are impractical to monitor annually, on a sampling basis, regardless of their length. Various arguments (technical, legal, and cost/benefit) have been advanced to support the position that the 100-foot limitation in the original rule was intended only to define "short sections of protected mains" and not to modify the term "service lines."

MTB has evaluated these arguments by checking the record of Docket No. OPS-5 and consulting knowledgeable field enforcement personnel. Both the record and enforcement practices are consistent with the view that until issuance of Amendment 192-35, separately protected service lines have been eligible for monitoring on a sampling basis, regardless of length. It also appears that Departmental training material provided to industry participants indicates that separately protected service lines were not considered subject to the 100-foot limitation. As a result, because Amendment 192-35 was not intended to modify the existing rule with regard to service lines, MTB is hereby amending section 192.465(a) as set forth below to eliminate any further misunderstanding about application of the 100-foot limitation to separately protected service lines.

In consideration of the foregoing, section 192.465(a) is revised to read as follows:

§ 192.465 External corrosion control: monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of section 192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet, or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

* * * * *

(49 U.S.C. 1672; 49 CFR 1.53 and Appendix A of Part 1)

Issued in Washington, D.C., on April 1, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-10193 Filed 4-4-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25; Notice 38]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Interpretation.

SUMMARY: This notice clarifies the procedure to be used under the Uniform Tire Quality Grading (UTQG) Standards in measuring tread depth of tires without circumferential grooves or with a limited number of grooves. The regulation's provision for measurement of tread depth in tire grooves has given rise to questions concerning the proper means of measurement for such tires. This notice is intended to facilitate testing of tires of this type.

EFFECTIVE DATE: This interpretation is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Hipolit, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh

Street SW., Washington, D.C. 20590, 202–426–1834.

SUPPLEMENTARY INFORMATION: The UTQG Standards (49 CFR 575.104) require the grading of passenger car tires on three performance characteristics: treadwear, traction and temperature resistance. In setting forth the procedure to be followed in evaluating treadwear performance, the regulation states that, after an 800-mile break-in, tires are to be run for 6,400 miles over a designated course, with tread depth measurements to be taken every 800 miles. The regulation specifies that tread depth is measured at six equally spaced points in each tire groove other than shoulder grooves, avoiding treadwear indicators. Tire grooves are typically arranged symmetrically around the center of the tread.

On May 24, 1979, the National Highway Traffic Safety Administration (NHTSA) published in the **Federal Register** (44 FR 30139) an interpretation that tires designed for year round use do not qualify as "deep tread, winter-type snow tires", which are excluded from the coverage of the UTQG regulation by 49 CFR 575.104(c). In response to this interpretation, the Goodyear Tire & Rubber Company commented to NHTSA (Docket 25; Notice 32–011) that a technical problem may exist in the measurement of tread depth of tires for year round use since circumferential grooves are absent in the designs of many such tires.

NHTSA is aware that certain other standard tire designs, as well as year round designs, may incorporate lugs, discontinuous projections molded in the tread rubber, separated by voids, in place of ribs defined by circumferential grooves. In other cases, the limited number of grooves on the tire could lead to inaccurate results if measurements were made in only those grooves.

To assure accurate tread depth measurements on tires lacking circumferential grooves, and tires with fewer than four grooves, measurements are to be made along a minimum of four circumferential lines equally spaced across the tire tread surface. These lines are to be symmetrically arranged around a circumferential line at the center of the tread. The outer most line on each side of the circumferential tread centerline is to be placed within one inch of the shoulder.

Measurements are to be made at six equally spaced points along each line. If the design of the tire is such that, on a particular circumferential line, six equally spaced points do not exist at which groove or void depth exceeds by 1/16th of an inch the distance from the tread surface to the tire's treadwear indicator, measurements are not to be taken along that line. If measurements cannot be taken on four equally-spaced, symmetrically-arranged lines, the requirement for equal spacing does not apply. Measurements in that case are to be taken along a minimum of four lines, with an equal number of symmetrically arranged measured lines on either side of the tread centerline.

NHTSA recognizes that, due to the implementation schedule of the regulation, certain manufacturers may have already conducted treadwear tests on tires falling within the scope of this interpretation. The Agency does not object to the use in grading of treadwear data generated prior to the publication date of this notice, if such data was acquired using a test method varying only in minor, non-substantive respects from the method described in this interpretation.

The principal author of this notice is Richard J. Hipolit of the Office of Chief Counsel.

(Sec. 103, 112, 119, 201, 203; Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued on March 24, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80-10308 Filed 4-4-80; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 575

[Docket No. 25, Notice 39]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration.

ACTION: Final rule.

SUMMARY: This notice amends the Uniform Tire Quality Grading (UTQG) Standards to exclude from the requirements of the regulation tires produced in small numbers, which are not recommended for use on recent vehicle models. The amendment is intended to reduce costs to consumers and reduce regulatory burdens on industry in an area where the purchase of tires based on comparison of performance characteristics is limited.

EFFECTIVE DATE: The amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590, 202–426–1740.

SUPPLEMENTARY INFORMATION: The UTQG Standards, 49 CFR 575.104, are intended to enable consumers to make an informed choice in the purchase of passenger car tires through the use of comparative performance information relating to tire treadwear, traction and temperature resistance. The standards apply to new pneumatic tires for use on passenger cars manufactured after 1948. Deep tread, winter-type snow tires, space-saver or temporary use spare tires, and tires with nominal rim diameters of 10 to 12 inches have been excluded from the application of the regulation (49 CFR 575.104(c)).

Several tire manufacturers and dealers have informed the National Highway Traffic Safety Administration (NHTSA) that a small class of tires exists for which marketplace competition based on performance characteristics is extremely limited. These tires, which are purchased for use on vehicles manufactured after 1948 but nonetheless considered by their owners to be classic or antique, are produced in small numbers in a wide variety of designs and sizes. Purchasers of these tires are reportedly concerned primarily with appearance, authenticity, and availability rather than tire performance.

Information supplied by Intermark Tire Company indicates that a similar limited market exists for tires used on older vehicles requiring tire sizes no longer employed as original equipment on new vehicles. Intermark petitioned NHTSA to remove these tires from the coverage of the regulation on the basis that little market competition exists in their sale and that availability is the primary factor in the purchase of this class of tire.

In order to reduce costs to consumers and eliminate the need for industry to grade the multiplicity of small lines of tires in which comparative performance information would have limited value, NHTSA published a notice proposing to remove certain limited production tires from the application of the UTQG regulation (45 FR 807; January 3, 1980). Four criteria were specified to define limited production tires. First, the annual production by the tire's manufacturer of tires of the same design and size could not exceed 15,000 tires. Second, if the tire were marketed by a brand name owner, the annual purchase by the brand name owner could not exceed 15,000 tires. Third, the tire's size could not have been listed as a manufacturer's recommended size designation for a new motor vehicle produced or imported into this country in quantities greater than 10,000 during

the preceding calendar year. Fourth, the annual production by the tire's manufacturer, or the total annual purchase by the tire's brand name owner, if applicable, of different tires otherwise meeting the criteria for limited production tires could not exceed 35,000 tires. The proposal also clarified that differences in design would be determined on the basis of structural characteristics, materials and tread pattern, rather than cosmetic differences.

Commenters on the proposal, including the Rubber Manufacturers Association, the National Tire Dealers and Retreaders Association, Dunlop Limited, Intermark, Kelsey Tire Company and McCreary Tire and Rubber Company agreed that tire quality grading should not be required for limited production tires. Among the reasons stated for support of the proposal were expected cost savings to industry and the consumer and the special considerations affecting the purchase of these tires. After consideration of these comments, the agency has adopted the proposed amendment with minor modifications.

Intermark pointed out a possible anomalous situation which could result from the wording of subparagraph (c)(2)(iv) of the proposal. That provision placed a 35,000 tire limit on a manufacturer's total annual production of tires meeting the limited production criteria, *or*, in the case of tires marketed under a brand name, on the total annual purchase of limited production tires by a brand name owner. Thus, under this commenter's reading of (c)(2)(iv), 40,000 tires meeting the criteria of subparagraphs (c)(2)(i), (ii), and (iii) could be produced by a manufacturer, sold in groups of 10,000 to four different brand name owners, and still qualify as limited production tires. At the same time, another manufacturer could produce 40,000 tires meeting the first three criteria for sale in its own company outlets and be required to grade the tires. To make it clear that the 35,000 tire limitation on manufacturer's production applies whether or not the tires are marketed by a brand name owner, subparagraph (c)(2)(iv) has been modified by substituting the word "and" for "or."

Kelsey Tire Company asked how the criteria would apply to tires which are produced abroad in large numbers but are imported in quantities which would fall within the unit limitations of subparagraphs (c)(2)(i), (ii), and (iv) of the proposal. To make clear that the criteria are to be applied to foreign tires only insofar as they are imported in this country, subparagraphs (c)(2)(i) and (iv) have been modified to refer to "annual domestic production or importation into the United States by the tire's manufacturer". The reference to "importation * * * by the tire's manufacturer" includes in the total all tires entering the United States for sale under the name of the manufacturer, regardless of the shipping or title arrangements made by the manufacturer with distributors. Similarly, subparagraphs (c)(2)(ii) and (iv) have been modified to clarify the status of tires purchased by brand name owners.

McCreary and Intermark argued that the unit restrictions on production of tires meeting the criteria are too restrictive and should be eliminated or eased significantly. McCreary predicted that the total number of classic car tires produced by individual manufacturers will grow, although production runs of individual designs and sizes will remain small. Intermark contended that production limitations unfairly penalize efficient manufacturers and that a new vehicle recommended size designation provision such as proposed subparagraph (c)(2)(iii) would be sufficient to define the intended class of limited production tires.

NHTSA considers the stated limitations broad enough to encompass the "classic" car tire market as it is presently constituted. With regard to the larger production runs of tires in outdated sizes, NHTSA believes that the production of tires in numbers greater than the proposed limitations is suggestive of wider availability and resulting increased competition which would make UTQG information of greater value. Further, relaxing or eliminating unit restrictions could result in the exclusion from the application of the standard of high performance or racing tires which are not recommended as original equipment. The agency believes that comparative tire grading information should be available to purchasers of tires of this type. NHTSA will monitor the limited production tire market to determine whether future market changes require revision of the 35,000 tire limitation.

Pursuant to EO 12044, "Improving Government Regulation," and implementing departmental guidelines, the agency has considered the effects of this amendment. It reaffirms its earlier determination that the amendment is not significant and that the effects are so minimal as not to warrant preparation of a regulatory evaluation. NHTSA has determined that these amendments will result in modest cost savings to industry and consumers, while having no appreciable effect on safety or the environment.

Because this amendment relieves a restriction and because the agency desires to minimize any possible interruption in tire production pending the effective date of this amendment, the amendment is effective immediately.

In consideration of the foregoing, 49 CFR § 575.104(c) is amended to read:

§ 575.104 Uniform tire quality grading standards

* * * * *

(c) *Application.* (1) This section applies to new pneumatic tires for use on passenger cars. However, this section does not apply to deep tread, winter-type snow tires, space-saver or temporary use spare tires, tires with nominal rim diameters of 10 to 12 inches, or to limited production tires as defined in paragraph (c)(2) of this section.

(2) "Limited production tire" means a tire meeting all of the following criteria, as applicable:

(i) The annual domestic production or importation into the United States by the tire's manufacturer of tires of the same design and size as the tire does not exceed 15,000 tires;

(ii) In the case of a tire marketed under a brand name, the annual domestic purchase or importation into the United States by a brand name owner of tires of the same design and size as the tire does not exceed 15,000 tires;

(iii) The tire's size was not listed as a vehicle manufacturer's recommended tire size designation for a new motor vehicle produced in or imported into the United States in quantities greater than 10,000 during the calendar year preceeding the year of the tire's manufacture; and

(iv) The total annual domestic production or importation into the United States by the tire's manufacturer, and in the case of a tire marketed under a brand name, the total annual domestic purchase or purchase for importation into the United States by the tire's brand name owner, of tires meeting the criteria of paragraphs (c)(2)(i), (ii), and (iii) of this section, does not exceed 35,000 tires.

Tire design is the combination of general structural characteristics, materials, and tread pattern, but does not include cosmetic, identifying or other minor variations among tires.

The principal authors of this notice are Dr. F. Cecil Brenner of the Office of Automotive Ratings and Richard J. Hipolit of the Office of Chief Counsel.

(Sec. 103, 112, 119, 201, 203; Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued on: March 24, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80–10307 Filed 4–4–80; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 1 to Service Order No. 1418]

The Atchison, Topeka and Santa Fe Railway Co. Authorized To Operate Over Tracks of Southern Pacific Transportation Co. Near Houston, Tex.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1418

SUMMARY: This order authorizes the Atchison, Topeka and Santa Fe Railway Company to operate over tracks of the Southern Pacific Transportation Company near Houston, Texas and is amended to extend expiration date to 11:59 p.m., June 28, 1980.

EFFECTIVE: 11:59 p.m., March 28, 1980, and continuing in effect until 11:59 p.m., June 28, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 28, 1980.

Upon further consideration of Service Order No. 1418, (45 F.R. 8303), and good cause appearing therefor:

It is ordered,

§ 1033.1418 The Atchison, Topeka and Santa Fe Railway Company authorized to operate over tracks of Southern Pacific Transportation Company near Houston, Texas.

Service Order No. 1418 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration.* The provisions of this order shall expire at 11:59 p.m., June 28, 1980, unless othewise modified, amended, or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 28, 1980.

(49 U.S.C. (10304–10305 and 11121–11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–10407 Filed 4–4–80; 8:45 am]

BILLING CODE 7035–01–M

49 CFR Part 1033

[Revised Service Order No. 1431]

Cedar Rapids and Iowa City Railway Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Revised Service Order No. 1431.

SUMMARY: This order authorizes the Cedar Rapids and Iowa City Railway Company (CIC) to operate over tracks embargoed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) located between Middle Amana, Iowa, and Cedar Rapids, Iowa; over the Chicago, Rock Island and Pacific Railroad Company 4th Street Corridor in Cedar Rapids where MILW has been operating under trackage rights; and over certain terminal and industry tracks in Cedar Rapids between Milepost 86 and Milepost 87 in order to serve the 6th Street Power Station for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE: 12:01 a.m., April 1, 1980, and continuing in effect until 11:59 p.m., April 30, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

By Order No. 290A, dated February 25, 1980, the United States District Court for the Northern District of Illinois, Eastern Division, authorized the Trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) to impose an embargo on all operations outside of the MILW "core system" as identified by the Court. The MILW was authorized to place an embargo on inbound traffic as of 11:59 p.m., February 27, 1980, and on originating traffic as of 11:59 p.m., February 29, 1980. The MILW placed Embargo No. 10–80 as directed by the Court, effective on these dates.

The Cedar Rapids and Iowa City Railway Company (CIC) requests an emergency service order to operate over embargoed Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) tracks in order to continue service to shippers on these lines.

It is the opinion of the Commission that an emergency exists requiring the operation by CIC over tracks embargoed by MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days notice.

It is ordered,

§ 1033.1431 Cedar Rapids and Iowa City Railway Company authorized to operate over tracks embargoed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

(a) The Cedar Rapids and Iowa City Railway Company (CIC), is authorized to operate over tracks embargoed by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Middle Amana, Iowa, and Cedar Rapids, Iowa; over the Chicago, Rock Island and Pacific Railroad Company 4th Street Corridor in Cedar Rapids where MILW has been operating under trackage rights; and over certain terminal and industry tracks in Cedar Rapids between Milepost 86 and Milepost 87 in order to serve the 6th Street Power Station.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123 (b)(2) of the Interstate Commerce Act.

(d) *Rates applicable.* Inasmuch as this operation by CIC over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed, to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable via CIC become effective.

(e) In transporting traffic over these lines, CIC and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this

order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Employees.* In performing the authorized operations the four Articles contained in the draft agreement entitled *"Labor Protection Agreement between Railroad Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads represented by the Rail Labor Organizations operating through the Rail Labor Executives' Association"* (sometimes referred to as the Miami Accords and/or the 13 Principles) presently being circulated to the interested parties for ratification will apply. If the agreement, when ratified, contains modifications, such modifications will apply.

(g) *Effective date.* This order shall become effective at 12:01 a.m., April 1, 1980.

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-10409 Filed 4-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1339–A]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Union Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service order No. 1339–A

SUMMARY: This order authorizes the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) to operate over tracks of Union Pacific Railroad Company (UP) between Blakeslee Junction Interlocker, Washington, and Helsing Junction, Washington. The order is being vacated account MILW no longer operates in the above named territory.

EFFECTIVE DATE: 11:59 p.m., March 28, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 28, 1980.

Upon further consideration of Service Order No. 1339 (43 FR 43719, 44 FR 3712, and 44 FR 42697), and good cause appearing therefor:

It is ordered,

§ 1033.1339 Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company.

Service Order No. 1339 is vacated effective 11:59 p.m., March 28, 1980.

(49 U.S.C. 10304–10305 and 11121–11126)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-10406 Filed 4-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1448]

The Denver and Rio Grande Western Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1448.

SUMMARY: This order authorizes The Denver and Rio Grande Western Railroad Company (DRGW) to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) from Sandown Junction, Milepost .1 to and including Belt, Milepost 3.9 (junction with DRGW Belt Line), all in the vicinity of Denver, Colorado, for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 18, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Denver and Rio Grande Western Railroad Company (DRGW) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by DRGW over tracks formerly operated by RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1448 The Denver and Rio Grande Western Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee).

(a) The Denver and Rio Grande Western Railroad Company (DRGW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) from Sandown Junction, Milepost .1 to and including Belt, Milepost 3.9 (junction with DRGW Belt Line), all in the vicinty of Denver, Colorado, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) A similar application has been received from Cadillac and Lake City Railway Company to operate portions of RI tracks herein indicated. The Railroad Service Board has reviewed these applications and considered the recommendations of the Department of Transportation, and has approved the application of the DRGW to conduct these temporary operations in the public interest as listed in paragraph (a). Nothing herein shall be considered as a

prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the DRGW over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via DRGW become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, DRGW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interest of affected employees.

Accordingly, if DRGW chooses to excercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-10411 Filed 4-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Revised Service Order No. 1440]

El Dorado and Wesson Railroad Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Revised Service Order No. 1440.

SUMMARY: This order authorizes the El Dorado and Wesson Railroad Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

1. El Dorado, Arkansas for the purpose of interchanging its traffic with the Missouri Pacific Railroad Company.

2. From El Dorado to Velsico Plant at Catesville, Arkansas, a station 8 miles south of El Dorado.

EFFECTIVE: 12:01 a.m., April 4, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: April 1, 1980.

The lines of the Chicago, Rock Island and Pacific Railroad Company (RI) at El Dorado, Arkansas are embargoed depriving shippers located between El Dorado and Newell, Arkansas, on the lines of the El Dorado and Wesson Railroad Company (EDW) of essential railroad service. The EDW connects with the RI at El Dorado and has consented to operate over these tracks in order to interchange its traffic with the Missouri Pacific Railroad Company and to serve industries located adjacent to RI tracks.

It is the opinion of the Commission that an emergency exists requiring the operation of EDW trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1440 El Dorado and Wesson Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) El Dorado and Wesson Railroad Company (EDW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks.

1. El Dorado, Arkansas for the purpose of interchanging its traffic with the Missouri Pacific Railroad Company.

*2. From El Dorado to Velsicol Plant at Catesville, Arkansas, a station 8 miles south of El Dorado.

(b) Application. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the EDW over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs

*Addition.

naming rates and routes specifically applicable via EDW become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, EDW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if EDW chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) Effective date. This order shall become effective at 12:01 a.m., April 4, 1980.

(i) Expiration date. The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-10410 Filed 4-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Revised Service Order No. 1450]

Illinois Central Gulf Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Revised Service Order No. 1450.

SUMMARY: This order authorizes the Illinois Central Gulf Railroad Company (ICG) to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) located at Ruston, Louisiana, for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE: 12:01 a.m., March 28, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 18, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Illinois Central Gulf Railroad Company (ICG) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by ICG over tracks formerly operated by RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1450 Illinois Central Gulf Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) The Illinois Central Gulf Railroad Company (ICG) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) located at Waterloo, Iowa, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the ICG over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via ICG become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, ICG and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if ICG chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) Effective date. This order shall become effective at 12:01 a.m., March 24, 1980.

(i) Expiration date. The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-10408 Filed 4-4-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 68
Monday, April 7, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

[CCC Cotton Loan Program Regulations Governing 1980 and Subsequent Crops]

Cotton Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture is considering changes in the regulations governing the 1980 and subsequent crops cotton loan program to facilitate the price support program for producers who desire the use of a marketing service to market their cotton. The major changes being considered are: (1) authorizing disbursement and repayment of Form A cotton loans through a central county ASCS office designated by CCC, and (2) providing for centralized holding of warehouse receipts and related documentation at a central county ASCS office or at any financial institution approved by CCC. This notice invites written comments on the proposed changes.

DATES: Comments must be received on or before June 6, 1980, in order to be assured of consideration.

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

FOR FURTHER INFORMATION CONTACT: Harold L. Jamison, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: The proposed changes are necessary to allow producers to most effectively use a marketing service in order to obtain the best price available in marketing their cotton and at the same time use the CCC loan program to facilitate orderly marketing. The existing regulations provide that Form A cotton loans will be disbursed by the county office which maintains the farm program records for the farm on which the cotton was produced. In the case of repayment, the same procedure applies except that a producer may request that the warehouse receipts, (and classification memorandums) be forwarded to a bank for payment in which case the amount of the loan, interest and charges must be paid to the bank within 5 business days after the documents are received by the bank. Under the proposed change in the regulations, CCC would authorize disbursement and repayment of Form A cotton loans through a central county ASCS office designated by CCC to provide centralized service to a person or firm, as a producer's agent, under a written agreement with CCC. Existing regulations further provide that warehouse receipts are held in custody of the county office that disburses the loan. Under the proposed change, CCC would provide for centralized holding of warehouse receipts at a central county ASCS office designated by CCC, or at any financial institution under written agreement with CCC, setting forth the obligations of the financial institution as custodian of the warehouse receipts and as an agent for CCC in validating CCC sight drafts to the person or firm that advanced funds to the producer. In view of the above proposed changes, CCC would authorize a person or firm under written agreement with CCC to be agent to perform certain functions for CCC in addition to preparation of CCC sight drafts and the power of attorney form with the producer as an agent in the execution of loan documents, to obtain Form A cotton loans and repayment of the loans through a central county ASCS office designated by CCC to provide centralized service to the agent. Other minor changes are proposed to the present regulations which would provide continuity of this program with respect to the General Regulations at Part 1421 and changes which would remove detailed operating procedures from the existing Cotton Loan Program Regulations.

Proposed Rule

Accordingly, it is proposed to amend 7 CFR sections 1427.1 through 1427.26, effective for the 1980 and subsequent crops of cotton, to read as provided below.

PART 1427—COTTON

Subpart—Cotton Loan Program Regulations

Sec.

1427.1 General statement.
1427.2 Definitions.
1427.3 Administration.
1427.4 Eligible producer.
1427.5 Eligible cotton.
1427.6 Program availability and disbursement of loans.
1427.7 Maturity of loans.
1427.8 Weight, loan rate, and amount of loans.
1427.9 Classification and micronaire reading of cotton.
1427.10 Approved storage.
1427.11 Applicable forms.
1427.12 Warehouse receipts and insurance.
1427.13 Liens.
1427.14 Service charges.
1427.15 Clerk fees.
1427.16 Interest rate.
1427.17 Setoffs.
1427.18 Special procedure where note amount advanced.
1427.19 Reconcentration of cotton.
1427.20 Custodial office.
1427.21 Loss of or damage to pledged cotton.
1427.22 Repayment of loans.
1427.23 Cotton cooperative marketing association loans.
1427.24 Death, incompetency, or disappearance.
1427.25 Kansas City Commodity Office and Management Field Office.

Authority: Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421). Sec. 602, 91 Stat. 934 (7 U.S.C. 1444).

Subpart—Cotton Loan Program Regulations

§ 1427.1 General Statement.

The regulations in this subpart, including any amendments and the annual supplements hereto, set forth the requirements with respect to price support loans on cotton of the 1980 crop and each subsequent crop for which an annual supplement to this subpart issued. Price support loans will be made available by CCC to eligible cotton producers on eligible upland and extra long staple cotton. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation, and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

§ 1427.2 Definitions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them therein unless the context or subject matter otherwise requires.

(a) "Person", "State Executive Director", "County Executive Director", and "farm", respectively, shall each have the same meaning as the definition of such term in part 719 of this title and any amendment thereto.

(b) "Management Field Office" shall mean the Management Field Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 8930 Ward Parkway, Kansas City, Missouri 64114 (mailing address P.O. Box 205, Kansas City, Missouri 54141).

(c) "Kansas City Commodity Office" shall mean the Kansas City Commodity Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Brymer Office Center, 2400 West 75th Street, Praire Village, Kansas 66208 (mailing address P.O. Box 8377, Shawnee Mission, Kansas 66208).

(d) "State committee" shall mean Agricultural Stabilization and Conservation State Committee and shall include only the State committee and not its representative.

(e) "County committee" shall mean the Agricultural Stabilization and Conservation county committee and shall include only the county committee and not its representative.

(f) "Loan clerk" shall mean a person approved by CCC to assist producers in preparing loan documents.

(g) "Charges" shall mean all fees, costs, and expenses paid by CCC incident to insuring or reinsuring, reconcentrating, carrying, handling, storing, conditioning, and otherwise protecting the interest in the loan collateral of CCC and the producer.

(h) "Financial institution" shall mean (1) a bank in the United States which accepts demand deposits, (2) an association organized pursuant to State law and supervised by State banking authorities, or (3) a production credit association.

(i) "False-packed", "water-packed", "mixed-packed", "reginned", and "repacked" cotton shall each have the same meaning as the definition of such term in part 28 of this title and any amendment thereto.

(j) "Authorized agent" shall mean a person or firm under written agreement with CCC designated by a producer as an agent to execute loan documents, prepare CCC sight drafts and power of attorney forms, obtain Form A cotton loans and repay such loans through a central county ASCS office.

§ 1427.3 Administration.

(a) *Responsibility.* The Price Support and Loan Division, ASCS, will administer the regulations in this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, ASCS, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, the regulations in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees (hereinafter called State and county committees) the Kansas City Commodity Office, and the ASCS Management Field Office.

(b) *Documents.* Any member of the county committee, the county executive director, or other employee of the county ASCS office (hereinafter called county office) designated in writing by the county executive director to act in the county executive director's behalf (such delegation to be filed in the county office) is authorized to approve documents under this program except where otherwise specified in the regulations in this subpart. County committees or county executive directors also may approve loan clerks at convenient locations to assist producers in preparing loan documents.

(c) *Limitation of authority.* County executive directors, State and county committees, the Kansas City Commodity Office, and the ASCS Management Field Office do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(d) *State committee.* The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(e) *Executive Vice President, CCC.* No delegation herein to a State or county committee, the Kansas City Commodity Office, or the ASCS Management Field Office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee, the Kansas City Commodity Office, or the ASCS Management Field Office.

§ 1427.4 Eligible producer.

(a) *Producer.* An eligible producer is any individual, partnership, corporation, association, trust, estate, or other legal entity, a State or political subdivision thereof, or any agency of such State or political subdivision producing eligible upland or extra long staple cotton in the capacity of landowner, landlord, tenant, or sharecropper. If eligible cotton is produced on a farm by a landlord and a share tenant or sharecropper, a price support loan may be obtained only as follows:

(1) If the cotton is divided among the producer's entitled to share in such cotton, each landlord, tenant, or sharecropper may obtain a loan on the producer's separate share.

(2) If the cotton is not divided, all producers having a share in the cotton may obtain a joint loan on such cotton.

(b) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person or estate represented by the executor or administrator. Loan documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if the minor meets one of the following requirements. (1) The right of majority has been conferred on the minor by court proceedings or by statute; (2) a guardian has been appointed to manage the minor's property and the applicable price support documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

§ 1427.5 Eligible cotton.

Upland cotton produced by eligible producers or extra long staple cotton produced by eligible producers in

counties listed in part 722 of this title and any amendment thereto is eligible cotton if it meets the following requirements:

(a) Upland cotton must have been produced on a farm by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, who has complied with the set-aside and the normal crop acreage requirements, if any, specified in parts 718, 722, 728, 775, and 791 of this title and any amendment thereto. Extra long staple cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, on a farm on which it has been determined that the acreage planted to such cotton does not exceed the farm allotment as prescribed in parts 718, 722, and 791 of this title and any amendment thereto. The cotton in any bale may have been produced by two or more cooperators on one or more farms if the bale is not a repacked bale.

(b) Such cotton must be tendered for a loan within the availability period of § 1427.6(d) and must be cotton of a crop for which loans are available as provided in an annual supplement to the regulations in this subpart.

(c) Such cotton must be of a grade and staple length specified in (1) the schedule of premiums and discounts for upland cotton, or (2) the schedule of loan rates for extra long staple cotton, contained in the applicable annual supplement to the regulations in this subpart and must be represented by a warehouse receipt meeting the requirements of § 1427.12.

(d) Such cotton must not be false-packed, water-packed, mixed-packed, reginned, or repacked; upland cotton must not have been reduced more than two grades because of preparation; extra long staple cotton must have been ginned on a roller gin, must not have a micronaire reading of 2.6 or less, and must not have been reduced in grade for any reason.

(e) Such cotton must be in existence and in good condition.

(f) Such cotton must not be compressed to universal density where side pressure has been applied or to high density at a warehouse.

(g) The producer or cooperative marketing association tendering the cotton for a loan must have the legal right to pledge it as security for a loan.

(h) Such cotton must not have been produced on land owned by the Federal Government if such land is occupied without a lease, permit, or other right of possession.

(i) The producer or cooperative marketing association tendering such cotton must not have previously sold and repurchased such cotton or placed it under CCC loan and redeemed it.

(j) Each bale of cotton must weigh not less than 325 pounds net weight.

(k) Cotton which has been compressed to standard or higher density, either at a warehouse or at a gin, must have not less than eight bands.

(l) Each bale must be packaged in materials which meet CCC specifications according to regulations at 7 CFR Part 1427, Sections 1427.1901–1427.1905, for bale coverings and bale ties or must be packaged in material and/or bale ties identified with the experimental programs of the Cotton Industry Bale Packaging Committee sponsored by the National Cotton Council. Heads of bales must be completely covered.

(m) Each bale must be ginned by a ginner (1) who has entered the tare weight of the bale (bagging and ties used to wrap the bale) on the gin bale tag, and (2) who has entered into CCC–809, Cooperating Ginners' Bagging and Bale Ties Certification and Agreement, or certified that the bale is wrapped with bagging and bale ties meeting the requirements of paragraph (1) of this section.

(n) The beneficial interest in the cotton must be in the producer tendering the cotton for a loan (or in the producer-member delivering the cotton to the cooperative marketing association which tenders the cotton for a loan) and must have always been in the producer or in the producer and a former producer whom the producer succeeded before it was harvested. To meet the requirements of succession to a former producer, the right, responsibilities, and interest of the former producer with respect to the farming unit on which the cotton was produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest without acquisition of any additional interest in the farming unit shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met. The producer's beneficial interest in cotton shall not be considered to have been divested if the producer enters into a contract to sell, or gives an option to buy, the cotton if, under the contract or option, the producer retains control and risk of loss of and title to the cotton and retains control of its production.

(o) If the person tendering cotton for a loan is a landowner, landlord, tenant, or sharecropper, the cotton must be such persons's separate share of the crop and must not have been acquired by such person directly or indirectly from a landowner, landlord, tenant, or sharecropper or have been received in payment of fixed or standing rent.

(p) Each bale of upland cotton sampled by the warehouseman upon initial receipt which has not been sampled by the ginner must not show more than one sample hold on each side of the bale. If more than one sample is desired when the bale is received by the warehouseman, the sample shall be cut across the width of the bale, broken in half or split lengthwise, and otherwise drawn in accordance with AMS dimension and weight requirements. This requirement will not prohibit sampling of the cotton at a later date if authorized by the producer.

§ 1427.6 Program availability and disbursement of loans.

(a) *Where to request price support.* A producer should request price support at the local county ASCS office, except that an authorized agent under agreement with CCC and designated by producers to obtain loans in their behalf, may obtain loans through a central county ASCS office designated by CCC. An approved cooperative marketing association must request price support at a servicing bank approved by CCC or at the county ASCS office for the county in which the principal office of the cooperative is located unless the State ASC committee designates some other county ASCS office.

(b) *Disbursement of loans.* Disbursement of loans will be made by local county ASCS offices, or by central county ASCS offices when designated by CCC to provide centralized service to a person or firm, as a producer's agent, under a written agreement with CCC, by drafts drawn on CCC or by credit to the producer's account. Loans may be disbursed by approved servicing banks to approved cooperative marketing associations. The drafts will be validated by an approved financial institution which executes a servicing agreement with CCC. Service charges and cotton research and promotion fees, when required under the regulations in §§ 1205.500–1205.540 of this title, and any amendment thereto, will be deducted from the loan proceeds. If the producer so elects, clerk fees may be deducted from the loan proceeds instead of being paid in cash. The loan documents shall not be presented for disbursement unless the commodity covered by the mortgage or pledge is in existence and in good condition.

If the commodity was not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly.

(c) *Program availability.* Loans on cotton represented by warehouse receipts will be available to eligible producers on:

(1) Eligible upland cotton stored at CCC approved warehouses.

(2) Eligible extra long staple cotton produced in counties listed in part 722 of this title and any amendment thereto and stored at CCC approved warehouses.

(d) *Period of availability of loans.* Producers may request loans on a crop of cotton from the beginning of harvest of the crop through May 31, following the calendar year in which such crop is grown. Notes for loans must be signed by the producer and mailed or delivered to the county office within 15 days after the producer signs the notes and within this period of loan availability. Whenever the final date of availability falls on a nonworkday for county ASCS offices, the applicable final availability date shall be extended to include the next workday.

§ 1427.7 Maturity of loans.

(a) *Time and maturity and extension of loans.* Loans of Form A cotton as referred to in § 1427.11(a) of this subpart (and loan advances to cotton cooperative marketing associations on Form G cotton) mature on the last day of the 10th calendar month from the first day of the month in which the loan (or loan advance) is made, or upon such earlier date as CCC may make demand for payment, except that whenever such date falls on a nonworkday for county ASCS offices, the date of maturity shall be the next workday. Upland cotton loans may at the producer's request be extended for an additional eight (8) months during the 10th month of the initial loan provided the average spot market price for Strict Low Middling 1⅛ inch cotton during the ninth month of the loan did not exceed 130 percent of the average spot market price for Strict Low Middling cotton for the preceding 36 months. CCC may, by public announcement, extend the time for repayment of the loan indebtedness or carry the loan in a past due status.

(b) *When CCC takes title to commodity.* On or after maturity and nonpayment of the note, title to the cotton shall, at CCC's election, without a sale thereof, vest in CCC, and CCC shall have no obligation to pay for any market value which such cotton may have in excess of the amount of the loan, plus interest and charges. In the event the producer has made a fraudulent representation in the loan documents or in obtaining the loan, the producer shall be personally liable for any amount by which the amount due on the loan exceeds the market value of the cotton securing the loan as of the date title vests in CCC, as determined by CCC.

(c) *Sale by CCC.* Upon maturity and nonpayment of a note, CCC is authorized without notice to the producer to sell, transfer, and deliver the cotton, or documents evidencing title thereto, at such time, in such manner, and upon such terms and conditions as CCC may determine, at any cotton exchange or elsewhere, or through any agency, at public or private sale, for immediate or future delivery, and without demand, advertisement, or notice of the time and place of sale or adjournment thereof or otherwise; and, upon such sale, CCC may become the purchaser of the whole or any part of such cotton at its market value, as determined by CCC. Any overplus remaining from the proceeds received therefrom, after deducting from such proceeds the amount of the loan, interest, and charges, shall be paid to the producer or to the producer's personal representative without right of assignment to or substitution of any other person. In the event the producer has made a fraudulent representation in the loan documents or in obtaining the loan, the proceeds received from the sale of the cotton shall be credited by CCC against the amount due on the loan, and the producer shall be personally liable for any balance due on the loan.

(d) *Small amounts.* To avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less will be paid to the producer only upon the producer's request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1427.8 Weight, loan rate, and amount of loans.

(a) *Weight.* Loans will be made on the net weight of the cotton as shown on the warehouse receipt, except that in the case of a bale which has a net weight of more than 600 pounds, the weight to be used in determining the amount of the loan on the bale shall be 600 pounds. Notes for loans on cotton pledged on reweights will not be accepted if CCC determines that such reweights reflect an increase in weight due to the absorption of moisture.

(b) *Loan rate for upland cotton.* (1) The base loan rate for strict low middling 1⅛ inch upland cotton of each crop at each approved warehouse location will be stated in the schedule of base loan rates for upland cotton by warehouse locations contained in the supplement to this subpart for such crop. The schedule will be available at county ASCS offices.

(2) The premium or discount applicable to each other eligible grade and staple length of upland cotton of each crop and the discount, if any, for each micronaire reading will also be contained in the supplement to this subpart for such crop.

(c) *Loan rate for ELS cotton.* Loan rates and micronaire discounts, if any, for extra long staple cotton of each crop will be contained in the supplement to this subpart for such crop.

(d) *Amount of loans.* The amount of the loan for each bale will be determined by multiplying the net weight of the bale, as determined under paragraph (a) of this section by the applicable loan rate, as determined under paragraph (b) of this section, and subtracting any unpaid warehouse receiving charges, any warehouse storage charges in excess of 60 days as of the date of tender to CCC, as provided in § 1427.12(c), and any unpaid charge for furnishing new bale ties as prescribed in § 1427.12(c) of this subpart. CCC will not increase the amount loaned on any bale of cotton as a result of a redetermination of the quality of the bale after it is tendered to CCC and will not increase the amount loaned as a result of any redetermination of weight after the cotton is tendered to CCC, except that if it is established to the satisfaction of CCC that a bona fide error was made in the weight of the bale or the loan rate for the bale on the Form A–1, such error may be corrected. In establishing the correct weight of the bale, CCC will deduct from the current weight of the bale any estimated weight gained while in storage.

§ 1427.9 Classification and micronaire readings of cotton.

(a) References made to "classification" in this subpart shall include micronaire readings. All cotton tendered for loan must be classed by a USDA, AMS, Marketing Services Office (referred to in this subpart as "the Marketing Services Office") and tendered on the basis of such classification. A Cotton Classification Memorandum form 1 showing the classification of a bale must be based upon a representative sample drawn from the bale in accordance with instructions to samplers drawing samples for organized improvement groups under the Smith-Doxey program. If the producer's cotton has not been sampled for a Form 1 classification, the warehouse shall sample such cotton and forward the samples to the Marketing Services Office serving the district in

which the cotton is located. Such warehouse must be licensed by the Agriculture Marketing Service, U.S. Department of Agriculture, to draw samples for submission to the board. If a sample has been submitted for a Form 1 or Form A classification, another sample shall not be drawn and forwarded to a board except for a review classification. Where review classification is not involved, if through error or otherwise two or more samples from the same bale are submitted for classification, the loan rate shall be based on the classification having the lower loan value. The classification Form 1 or Form A must be dated not more than 15 days prior to the date the warehouse receipt was issued (State committees may in arid regions extend this period to not to exceed 30 days prior to the date the warehouse receipt was issued upon determining that such extension will not result in reduction in the grade of the cotton during the extension period), otherwise a new sample must be drawn and a review classification based on the new sample will be required. If a Form 1 or Form A review classification is obtained, the loan value of the cotton represented thereby will be based on such review classification.

(b) The applicable classification charge shall be collected from the producer by the warehouse for all cotton for which samples are submitted to a board for a Form A review classification. The board will bill the warehouse at the end of each month for such charges. Payment of these bills shall be made by check or money order payable to "Commodity Credit Corporation" and mailed to the Kansas City Commodity Office.

§ 1427.10 Approved storage.

Except as provided otherwise in § 1427.19, cotton will be accepted as security for loans only if stored at warehouses approved by CCC. When the operator of a warehouse receives notice from CCC that a loan has been made by CCC on a bale of cotton, the operator shall, if such cotton is not stored within the warehouse, promptly place such cotton within the warehouse. Persons desiring approval of their facilities should communicate with the Kansas City Commodity Office. The names of approved warehouses may be obtained from the Kansas City Commodity Office or from State or county offices. Storage charges paid by a producer to CCC as security for a loan will not be refunded by CCC. If cotton is redeemed from the loan, the person removing the cotton from storage shall pay all unpaid warehouse charges at the established tariff rate.

§ 1427.11 Applicable forms.

The forms for use in connection with this program shall be as follows:

(a) Cotton producer's Note and Security Agreement, form CCC Cotton A (referred to in this subpart as "Form A").

(b) Schedule of Pledged Cotton, Form CCC Cotton A–1 (referred to in this subpart as "Form A–1").

(c) Warehouse receipts complying with the provisions of § 1427.12.

(d) Cotton Classification Memorandum, Form 1 or Form A3, for each bale showing the classification (including micronaire reading) assigned by a board of examiners of the U.S. Department of Agriculture.

(e) Lien Waiver, Form CCC–679 (referred to in this subpart as "Form 679") or other form approved by CCC, or Lienholder's Subordination Agreement, Form CCC–864, if used in lieu of execution of Lienholder's Waiver on Form A in accordance with provisions of § 1427.13.

(f) *Powers of attorney.* A producer who desires to appoint an attorney-in-fact to act in the producer's place and stead in obtaining loans may use power of attorney, Form ASCS–211 (referred to in this subpart as "Form 211"), or a power of attorney on another form if it is determined by CCC to be legally sufficient. The original or facsimile of the power of attorney or a copy certified by a notary public as a true and correct copy must be filed with the local county ASCS office or with a central county ASCS office when designated by CCC.

(g) Servicing Agreement with Financial Institution, executed by CCC and a financial institution setting forth the obligations of the financial institution as custodian of the warehouse receipts and as agent for CCC in validating CCC sight drafts to the person or firm that advances funds to the producer.

§ 1427.12 Warehouse receipt and insurance.

(a) *General.* Producers may obtain loans on cotton represented by warehouse receipts only if the warehouse receipts are negotiable machine cardtype warehouse receipts, are issued by CCC approved warehouses, provide for delivery of the cotton to bearer or are properly assigned by endorsement in blank, so as to vest title in the holder of the receipt, and otherwise are acceptable to CCC. The warehouse receipt must contain the tag number (warehouse receipt number), must show that the cotton is covered by fire insurance, and must be dated on or prior to the date the producer signs the note. If a bale is stored at the origin warehouse (the warehouse to which the bale was first delivered for storage after ginning), the warehouse receipt must contain the gin bale number. If a bale has been moved from the origin warehouse, the warehouse receipt shall, in lieu of the gin bale number, contain the tag number and identification of the origin warehouse. Open yard endorsement, if any, on the warehouse receipt must have been rescinded with the legend "open yard disclaimer deleted" with appropriate signature of the warehouseman or the authorized representative. Block warehouse receipts will not be accepted.

(b) *Weight.* Each receipt must set out in its written or printed terms the tare and the net weight of the bale represented thereby. The net weight shown on the warehouse receipt shall be the difference between the gross weight as determined by the warehouse at the warehouse site and the tare weight, except that the warehouse receipt may show the net weight established at a gin (1) in case the gin is in the immediate vicinity of the warehouse and is operated under common ownership with such warehouse or in any other case in which the showing of gin weights on the warehouse receipts is approved by CCC, and (2) if the showing of gin weights on the warehouse receipts is permitted by the licensing authority for the warehouse. The tare shown on the receipt shall be the tare furnished to the warehouse by the ginner or entered by the ginner on the gin bale tag. A warehouse receipt reflecting an alteration in tare or net weight will not be accepted by CCC unless it bears, on the face of the receipt, the following legend or similar wording approved by CCC, duly executed by the warehouse or an authorized representative of the warehouse:

Corrected (tare or net) weight _____

(Name of warehouse)
By _____
Date _____

Alterations in other inserted data on the receipt must be initialed by an authorized representative of the warehouse.

(c) *Storage and receiving charges.* If warehouse storage charges have been paid, the receipt must be stamped or otherwise noted to show that date through which the storage charges have been paid. For receipts showing accrued storage charges in excess of 60 days as of the date of tender to CCC, the loan amount will be reduced for each month of unpaid storage or fraction thereof in excess of 60 days by the monthly storage charge specified in the storage agreement between the warehouse and

CCC. If warehouse receiving charges have been paid or waived, the receipt must be stamped or otherwise noted to show such fact. If the receipt does not show that receiving charges have been paid or waived, the loan amount will be reduced by the amount of the receiving charges specified in the storage agreement: *Provided, however,* That except for bales stored in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, if receiving charges due on the bale include a charge, if any, for a new set of ties for compressing flat bales tied with ties which cannot be reused, the warehouse receipt must show such receiving charges and state: "rec. charges due include charge for new set of ties," or similar notation, and the loan amount will be reduced by the amount of the receiving charges shown on the warehouse receipt (this will be the amount payable by CCC if it pays for receiving, notwithstanding the provisions of the storage agreement). In any case where the loan amount is reduced by unpaid storage or receiving charges the charges will be paid to the warehouseman by CCC after loan maturity if the cotton is not redeemed from the loan, or as soon as practicable after the cotton is ordered shipped by CCC or destroyed by fire while in loan status. Except for bales stored in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, or Virginia, if the bale is stored at a warehouse which does not have compress facilities or arrangements, and if the bale ties are not suitable for reuse when the bale is compressed, the warehouse receipt must show this fact, and the loan amount will be reduced by the charge which will be assessed by the nearest compress in line of transit for furnishing new bale ties.

(d) *Rail shipments.* If the bale was received by rail, the receipt must be stamped or otherwise noted to show such fact.

(e) *Compression.* The warehouse receipt must show the compression status of the bale, i.e., flat, modified flat, standard, gin standard, gin universal, or warehouse universal density. If the compression charge has ben paid, or if the warehouse claims no lien for such compression, the receipt must be stamped or otherwise noted to show such fact.

§ 1427.13 Liens.

Except as otherwise provided in this section, cotton tendered for loan must be free and clear of all liens, except the warehouse lien (including a warehouse lien held by a cooperative warehouse for its producer-patrons) for those charges which are authorized in the storage agreement with CCC. The signatures of the holders of all such existing liens on cotton tendered as security for a loan, such as landlords, laborers, or mortgagees, must be obtained on the lienholder's waiver on each Form A, except that in lieu of signing the lienholder's waiver on each Form A, the lienholder may waive his/her lien on all cotton of that crop produced by a producer on a form (or on all farms) or pledged on one Form A by use of Form 679 or by use of another form approved by CCC. In lieu of waiving a prior lien on cotton tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which the lienholder subordinates the lienholder's security interests to the right of CCC in the cotton. If cotton is subject to warehouse lien for advances or charges not authorized in the storage agreement, the cotton will be acceptable hereunder if such liens are subordinated to the rights of CCC. A fraudulent representation as to prior liens or otherwise will render the producer personally liable and subject the producer, and any other person who causes the fraudulent representation to be made, to criminal prosecution under the provisions of the Commodity Credit Corporation Charter Act.

§ 1427.14 Service charges.

A producer shall pay a service charge to CCC for each loan disbursed at the rate of $1.50 per loan plus 25 cents for each bale thereon. The service charge to be paid to CCC by the producer shall be in addition to any clerk fee paid to a loan clerk as authorized in § 1427.15. The service charge is not refundable.

§ 1427.15 Clerk fees.

Loan clerks may collect fees from producers for preparing loan doucments not to exceed the fees shown in the following schedule:

Number of Bales on Note and Maximum Fee Allowed

1—25 cents.

2 to 6—25 cents plus 15 cents for each bale over 1.

7 and over—$1 plus 10 cents for each bale over 6.

§ 1427.16 Interest rate.

Loans shall bear interest at the rate announced in a separate notice published in the **Federal Register.**

§ 1427.17 Setoffs.

(a) If any installment(s) on any loan made available by CCC on farm-storage facilities or drying equipment is due and payable under the provisions of the note evidencing such loan out of any amount due to producer under the program provided for in this subpart, the producer must designate CCC as payee of such amount to the extent of such installment(s), but not to exceed that portion of the amount remaining after deduction of clerk fees, service charges, research and promotion fees, and amounts due prior lienholders.

(b) If the producer is indebted to CCC, or if the producer is indebted to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under the program provided for in this subpart, after deduction of amounts payable under paragraph (a) of this section shall be applied to such indebtedness as provided in the Secretary's Setoffs and Withholding Regulations, Part 13 of this title and any amendments thereto.

(c) Compliance with the provisions of this section shall not deprive the producer of any right the producer otherwise has to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1427.18 Special procedure where note amount advanced.

(a) *Purpose.* This special procedure is provided to assist persons or firms which in the course of their regular business of handling cotton for producers have made advances to eligible producers on eligible cotton to be placed under loan and desire to obtain credit at a financial institution for the amounts advanced. A financial institution which has made advances to eligible producers on eligible cotton may also obtain reimbursement for the amounts advanced under this procedure.

(b) *Eligible documents.* This special procedure shall apply only to loan documents covering cotton on which a person or firm has advanced to the producers (including payments to prior lienholders and other creditors) the note amounts shown on the Form A, except for authorized loan clerk fees, the research and promotion fee collected for transmission to the Cotton Board, and CCC loan service charges, and shall apply only if such person or firm is entitled to reimbursement from the proceeds of the loans for the amounts advanced and has been authorized by the producer to deliver the loan documents to a county ASCS office for disbursement of the loans.

(c) *Delivery of notes to county offices.* Each Form A and related documents as required by § 1427.11 shall be mailed or delivered to a county ASCS office which shall show the entire proceeds of the

loans, except for CCC loan service charges, for disbursement to (1) the financial institution which is to allow credit to the person or firm which made the loan advances or to such financial institution and such person or firm as joint payees, or (2) the financial institution which made the loan advances to the producers. When received in a county ASCS office (or postmarked, if mailed) warehouse receipts and loan documents must reflect not more than 60 days accrued storage, or the loan amount must be reduced by the excess storage as specified in § 1427.12. The documents shall be accompanied by Form CCC–825, transmittal schedule of Form A Cotton Loans, in original and two copies, numbered serially for each county office by the financial institution. The Form CCC–825 shall show the amounts invested by the financial institution in the loans, which shall be the amounts of the notes minus the amounts of CCC loan service charges shown on the notes. Upon receipt of the loan documents and Form CCC–825, the county office will stamp one copy of the Form CCC–825 to indicate receipt of the documents and return this copy to the financial institution.

(d) *Disbursement of loans.* County ASCS offices will review the loan documents prior to disbursement and will return to the financial institution any documents determined not to be acceptable because of errors or illegibility. County ASCS offices will disburse the loans for which loan documents are acceptable by issuance of one draft to the payee indicated on the Form A and will mail the draft to the address shown for such payee on the Form A with a copy of Form CCC–825. The Form CCC–825 will show the date of disbursement by a county ASCS office and amount of interest earned by the financial institution.

(e) *Investment of funds by the financial institution.* The financial institution shall be deemed to have invested funds in the loans as of the date loan documents acceptable to CCC were delivered to a county ASCS office or, if received by mail, the date of mailing as indicated by postmark or the date of receipt in a county ASCS office if no postmark date is shown. Patron postage meter date stamp will not be recognized as a postmark date.

(f) *Basis of computing interest earned.* Interest will be computed on the total amount invested by the financial institution in the loan represented by accepted loan documents from and including the date of investment of funds by the financial institution to, but not including, the date of disbursement by a county ASCS office.

(g) *Interest rate.* Interest will be at the same rate(s) as announced in separate notice(s) published in the **Federal Register.**

(h) *Payment of interest.* Interest earned by the financial institution in the investment in loans disbursed during a month will be paid by county ASCS offices after the end of the month.

§ 1427.19 Reconcentration of cotton.

(a) *As cotton enters loan.* Loans on cotton to be reconcentrated shall be available only on cotton received at CCC approved warehouses in areas where there is a shortage of storage space and the local warehouse certifies such fact to CCC. A producer who desires to obtain a loan on cotton to be reconcentrated under the provisions of this paragraph shall request such reconcentration and present the same documents as required for a regular loan. The Forms A–1 and warehouse receipts covering cotton to be reconcentrated must show the reconcentration order number furnished by the county office under which the cotton will be shipped. The county office shall arrange for reconcentration of the cotton under the direction of the Kansas City Commodity Office. Any fees, cost, or expenses incident to such actions shall be charges against the cotton. That office shall obtain new warehouse receipts, allocate to individual bales shipping and other charges incurred against the cotton, and return new warehouse receipts and reconcentration charges applicable to each bale to the county office. Such reconcentration charges shall be added to bale loan amounts and must be repaid for bales redeemed from loan.

(b) *Cotton under loan.* CCC may under certain conditions, before loan maturity, compress, store, insure, or reinsure the cotton against any risk, or otherwise handle or deal with the cotton as it may deem necessary or appropriate for the purpose of protecting the interest therein of the producer or CCC. CCC may also move the cotton from one storage point to another with the written consent of the producer or borrower and upon the request of the local warehouse and certification that there is congestion and lack of storage facilities in the area: *Provided, however,* That if CCC determines such loan cotton is improperly warehoused and subject to damage, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere and the local warehouse, after notice, declines to reduce such charges, such written consent need not be obtained. Any fees, costs, or expenses incident to such actions shall be charges against the cotton. After the cotton is reconcentrated, the Kansas City Commodity Office shall allocate shipping and other charges incurred against the cotton and return new warehouse receipts and reconcentration charges applicable to each bale to the county office. Such reconcentration charges shall be added to bale loan amounts and must be repaid for bales redeemed from loans.

§ 1427.20 Custodial offices.

Forms A and A–1, collateral warehouse receipts, cotton classification memorandums, and related documents will be maintained in custody of loan county ASCS offices, central county ASCS offices, or any financial institution, as defined in § 1427.2, when approved by CCC. Such financial institution shall enter into a servicing agreement with CCC as provided in § 1427.11(g).

§ 1427.21 Loss of or damage to pledged cotton.

In any case where loss of or damage to cotton occurs while such cotton is pledged to CCC, CCC shall have the right to determine and file claims against any liable parties for the resulting loss. Upon determination of the identity of the bales of loan cotton lost or damaged, CCC will give credit on the producer's note for the loan value (including interest and charges) of such cotton. If the proceeds of the claim exceed the loan value of such cotton, the excess proceeds shall be remitted to the producer or to the party repaying the loan if the loan has been repaid.

§ 1427.22 Repayment of loans.

(a) If a producer desires to redeem one or more bales of cotton pledged to CCC as security for a loan, the producer may receive the warehouse receipts (and the classification memorandums applicable to such cotton, if requested) upon payment of the loan, interest, and charges applicable to the bales of cotton being redeemed at the local county ASCS office except that an authorized agent under agreement with CCC and designated by producers to repay loans on their behalf may repay loans through a central county ASCS office designated by CCC. The producer may also request that the warehouse receipts (and classification memorandums) be forwarded to a bank for payment, in which case the amount of the loan, interest, and charges must be paid to the bank within 5 business days after the

documents are received by the bank. Repayments will not be accepted after CCC acquires the cotton. All charges assessed by the bank to which the receipts are sent must be paid by the producer.

(b) A producer who desires to appoint an attorney-in-fact to act in the producer's place and stead in redeeming the producer's loan cotton, selling the producer's equities in loan cotton, or executing Forms CCC–813, release of Warehouse Receipts (referred to in this subpart as "Form 813"), shall use Form 211, except that a power of attorney on another form will be accepted if it is determined by CCC to be sufficient. The original or facsimile of the owner of attorney or a copy certified by a notary public as a true and correct copy must be filed with the local county ASCS office or central county ASCS office designated by CCC. The attorney-in-fact must execute and file with the local county ASCS office or central county ASCS office designated by CCC, an agreement of attorney-in-fact, Form CCC–815 (referred to in this subpart as "Form 815"), and the attorney-in-fact will not be allowed to redeem cotton, or to execute Form 813, pursuant to the power of attorney if the attorney-in-fact does not file the required Form 815. The attorney-in-fact shall not make any purchase of cotton redeemed from a CCC loan or producers' equities in such cotton for the attorney-in-fact's own account or as agent for others, or sell any such cotton or equities therein to any person by whom the attorney-in-fact is employed or who has the right to control or direct the attorney-in-fact's sale of the redeemed cotton or equities in any case where the attorney-in-fact redeems the cotton under authority of the power of attorney or signs the Form 813 under authority of the power of attorney. The attorney-in-fact shall not adopt any scheme or device to circumvent the intent of the regulations in this subpart or Form 815. If the attorney-in-fact holds powers of attorney from more than one producer, the attorney-in-fact may not pool their cotton or the proceeds therefrom nor make settlement with such producers on a pool basis upon sale of the cotton or the equities therein and will make an accounting to each producer for the proceeds of each bale of the producer's cotton which the attorney-in-fact redeems and sells and each equity which the attorney-in-fact transfers, unless the attorney-in-fact has a valid annual marketing agreement with such producers authorizing the attorney-in-fact to pool the cotton or the proceeds therefrom.

(c) A producer or the producer's authorized agent may enter into an agreement with a person or persons to redeem the producer's cotton and may authorize the release of the applicable warehouse receipts to such person(s) or transferee (hereinafter called the buyer) on Form 813. If the buyer executes and files the Form 813 with the local county ASCS office or central county ASCS office designated by CCC, the buyer shall be obligated to redeem the cotton specified on such form on or before the maturity date of the loan on such cotton. CCC will use its best efforts to make certain that the cotton is not redeemed by anyone other than the buyer and to provide for the delivery to the buyer of the warehouse receipts (and the classification memorandums, if requested) covering the cotton on payment to the local county ASCS office or central county ASCS office designated by CCC, of the loan, interest and charges within 5 business days after the documents are received by the bank. All charges assessed by the bank to which the documents are sent must be paid by the buyer. Redemptions will not be permitted after the maturity date of the loan. On failure of the buyer to redeem all such cotton:

(1) At CCC's election, title to the cotton shall, without a sale thereof, immediately vest in CCC, and CCC shall have no obligation to pay for any market value which such cotton may have in excess of the amount of the loan thereon, plus interest and charges. The buyer shall be personally liable for any amount by which the amount due on the loan on such cotton exceeds the market value of the cotton as of the date title vests in CCC, as determined by CCC.

(2) At CCC's election, CCC is authorized, without notice to the buyer, to sell, transfer and deliver the cotton or documents evidencing title thereto, at such time, and in such manner, and upon such terms and conditions as CCC may determine, at any cotton exchange or elsewhere, or through any agency, at public or private sale, for immediate or future delivery, and without demand advertisement, or notice of the time and place of sale or adjournment thereof or otherwise; and upon such sale, CCC may become the purchaser of the whole or any part of such cotton at its market value,as determined by CCC. Any overplus remaining from the proceeds the amount of the loan on such cotton, plus interest and charges, shall be paid to the buyer or the buyer's personal representative without right of assignment to or substitution of any other person. If the proceeds from the sale do not cover the amount of the loan on such cotton, plus interest and charges, the buyer shall be liable to CCC for any difference.

(d) Warehouse receipts will not be released except as provided in paragraphs (a), (b), and (c) of this section.

§ 1427.23 Cotton cooperative marketing association loans.

A cotton cooperative marketing association which meets the eligibility requirements established by CCC as contained in the regulations in part 1425 of this chapter and any amendment thereto may enter into a cotton cooperative loan agreement, Form CCC Cotton G, which provides for loans through the association to its producer-members. Copies of the form of agreement will be furnished to all associations which have been approved under such regulations. The loan rates under this agreement will be the same as for loans made to individual producers on Forms A and eligibility requirements for cotton and producers tendering cotton to the association and other loan provisions will be similar to those for Form A loans made to individual producers.

§ 1427.24 Death, incompetency, or disappearance.

In the case of death, incompetency, or disappearance of any producer who is entitled to the payment of any proceeds in settlement of a loan, payment shall, upon proper application to the county office which disbursed the loan, be made to the person or persons who would be entitled to such producer's payment as provided in the regulations entitled Payment Due Persons Who Have Died Disappeared, or Have Been Declared Incompetent, part 707 of this title, and any amendment thereto.

§ 1427.25 Kansas City Commodity Office and Management Field Office.

(a) Kansas City Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208, will serve all States.

(b) Accounting, recording, and reporting for all States will be handled through Management Field Office, P.O. Box 205, Kansas City, Missouri 64141.

Note.—This proposed action has been determined "not significant" under USDA criteria implementing Executive Order 12044, Improving Government Regulations." An approved Draft Impact Analysis is available from Harold L. Jamison, Price Support and Loan Division (ASCS), Room 3749 South Building, Washington, D.C. 20013.

Signed at Washington, D.C., on April 1, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-10404 Filed 4-4-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 18605/79-AWE-18]

Proposed Group II Terminal Control Area; Phoenix, Ariz.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of a comprehensive program announced on December 27, 1978, in the FAA Administrator's Plan for Enhanced Safety of Flight Operations in the National Airspace System, the FAA proposes to establish a Group II Terminal Control Area (TCA) at Phoenix, Arizona. Operation in the proposed TCA would be subject to the operating and equipment rules for operation in Group II TCAs specified in § 91.90(b) of Part 91 of the Federal Aviation Regulations. This includes, among other rules, the requirement to have an operable VOR, TACAN receiver, two-way radio, and a transponder to operate in the TCA. An altitude encoder would not be required. This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace around the Phoenix Sky Harbor International Airport, Phoenix, Arizona. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involves visual flight rules (VFR) aircraft that are not required to be under ATC control. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users.

DATES: Comments must be received on or before July 6, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 18605/79-AWE-18, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

The docket for this action may be examined at the office of the Regional Air Traffic Division, at the above address, or at the FAA, Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Richard Morrison, Airspace and Procedures Branch, Air Traffic Division, (AWE-530), Western Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6180.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. All communications received on or before July 6, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the FAA Regional and Headquarters Rules Dockets for examination by interested persons.

Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice shall submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18605/79-AWE-18." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avene, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Prior Public Participation

The proposal contained in this notice was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. An extensive publicity effort was made to invite all interested persons to participate in those meetings. In addition to published notices, notice was given through mailing of notices to hundreds of persons believed to have an interest in the proposal, through posting of notices in airports, and through press, radio, and TV coverage. As a result of the meetings, adjustments to TCA configurations were made and are reflected in the configuration proposed in this notice. An additional opportunity for public participation is provided by this notice to ensure full consideration of public concerns at every stage of the rulemaking process. Based on the public participation and other available data, several locations that were included among the 44 candidates for new TCAs have been dropped from further consideration. Other locations may be dropped later if commensurate levels of safety can be sustained without TCA designations or operational requirements do not justify such designations.

Background: The Need for Increased Positive Control in Terminal Airspace

The takeoff and landing phases of flight result in the concentration of inflight aircraft in a relatively limited volume of airspace surrounding an airport. The number of aircraft per unit volume of airspace at a specific instant of time is a function of the number of aircraft using that airport and its proximity to one or more adjacent airports that share or abut that airspace. As air traffic activity at an airport increases, the need for increasingly precise control of aircraft and protection of airspace from unknown aircraft becomes essential for continued safe operations. The FAA has developed a spectrum of air traffic procedures which, when coupled with precision navigational aids, airport surveillance radar facilities, automated radar data processing capability, and a highly skilled work force, forms a comprehensive system to provide safe and efficient flight operations at all controlled airports.

The scope of services range from simple suggested airport traffic flows at lowest density airports, to terminal control areas at the busiest airports which provide positive controlled airspace. Within the latter, all aircraft are subject to specific operating rules and avionics equipment requirements.

The FAA is proposing to take action to extend or enhance the application of

these proven control techniques and hardware subsystems to more airports to assure greater protection of air traffic in the airspace regions most commonly used by passenger-carrying aircraft.

An analysis of the need for extending the ability of ATC to separate visual flight rules (VFR) aircraft and instrument flight rules (IFR) aircraft in terminal airspace is contained in the Administrator's Plan for Enhanced Safety which announced FAA's intent to propose, for public comment, establishment of 44 new Group II TCAs, and the vertical and lateral enlargement of the 21 previously established TCAs. This proposal to establish a Group II TCA at the Phoenix Sky Harbor International Airport is in accordance with that plan.

Near Midair Collisions in Terminal Airspace

The FAA experience since the establishment of mandatory TCAs and voluntary Terminal Radar Service Areas (TRSAs) indicates that, in terminal airspace, ATC control of VFR aircraft reduces the potential for hazardous traffic conflicts. A comparison of periods before and after the establishment of TCAs and TRSAs is instructive. In 1968, the FAA conducted an extensive study of near midair collision hazards in the U.S. airspace. The results of this study were published in the "Near Midair Collision Report of 1968," July, 1969. A major portion of the report was devoted to the collision potential in terminal airspace. For the year 1968 (which preceded the establishment of TCAs), the report concluded that, for the airports now served by TCAs, there were 271 incidents reported as "hazardous" to flight. In response to that study, since 1970, 21 TCAs were established. For the fiscal years 1975, 1976, and 1977, there were a total of 64 reported near midair collisions (NMACs) in these TCAs. For comparison purposes, this translates into an average of approximately 20 reported incidents per year, under TCA requirements, in contrast with the 271 incidents for the year 1968. These figures are not conclusive indicators of the absolute numbers of incidents, but are viewed as pointing toward the critical relationship between the absence of control of all aircraft and the likelihood of hazardous traffic conflicts in terminal airspace. As a result of public comments, in response to Notice No. 78–19 (44 FR 1322, January 4, 1979), questioning the adequacy of FAA's near midair collision information, a comprehensive review of that information has been undertaken.

The mix of controlled and uncontrolled aircraft in the Phoenix terminal area is extensive. Within 20 nautical miles (NM) of Phoenix Sky Harbor International Airport there are three general aviation, two military and five airports without control towers. In calendar year 1978, these eleven airports generated in excess of 20 million aircraft operations. The proximity of these airports to each other and the mix of various type aircraft using the airspace around Phoenix Sky Harbor International Airport illustrates the existence of a collision potential between controlled and uncontrolled aircraft in the Phoenix terminal airspace.

The "Highest Degree" of Air Transportation Safety

The near midair collision statistics cited above indicate that, for all classes of users of terminal airspace, the furnishing of separation service by ATC, in addition to the duty of pilots to see and avoid each other, can result in a higher level of air traffic safety. For the millions of air carrier passengers who enter and leave the major air terminals each year, Congress has directed that the highest feasible degree of safety be achieved. The FAA believes that the continued presence of a "mix" of ATC controlled aircraft and uncontrolled VFR aircraft can interfere unnecessarily with this safety objective.

The congressional mandate is clear with respect to the high level of safety intended for passengers in air transportation. Section 601 of the Federal Aviation Act of 1958 requires that the FAA give full consideration to the duty resting on air carriers to perform their services with the "highest possible degree of safety in the public interest * * *" This congressional concern for air transportation, as a distinct class to be protected, was restated in the Airline Deregulation Act of 1978 (Pub. L. 95–504, October 24, 1978) which amended Section 102 of the Federal Aviation Act of 1958 to emphasize the "dedication of Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public" (49 U.S.C. 1302(a)). The Airline Deregulation Act of 1978 also directed the Secretary of Transportation ("Secretary") to complete a thorough review of the safety regulations applicable to air carriers in order to ensure that "all classes of air carriers are providing the highest level of safe, reliable air transportation to all the communities served by those air carriers." The Administrator is directed to respond to the Secretary's review by promulgating regulations that may be needed to "maintain the highest standard of safe, reliable air transportation in the United States." The "high standard of safety in air transportation" is also stressed in relation to annual reports to be submitted to Congress by the Secretary beginning not later than January 31, 1980, (new Section 107 of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978). The orderly and extensive expansion of positive controlled airspace, including the proposal in this notice, would ensure that the systemwide capability of the FAA to assure separation protection for air carrier passengers remains commensurate with the encouragement and growth of a vigorous, safe and efficient air transportation system under the new act.

Building on Past Programs

While the TCA action described herein is proposed as part of the Administrator's Plan for Enhanced Safety, it follows, and is a logical extension of, programs that first gained momentum in 1962. That year, initiating many years of pilot participation in terminal radar service programs, such a program was established at Atlanta to solve communications workload problems and assist in aircraft sequencing. This was followed by a similar program at Merced Air Force Base, California, in 1965. This service was gradually extended until 1970, when the National Terminal Radar Program signalled a major expansion of ATC separation service following the 1968 Near Midair Collision Report (discussed below). Beginning with the TRSA at Nashville, a total of 86 nonregulatory TRSAs covering 105 airports were established under that program, the last being the Peoria TRSA in 1978. The safety enhancement program includes the proposed addition of 80 new TRSAs in phases ending in 1983.

In addition to these nonregulatory programs, the 1970 National Terminal Radar Program initiated the regulatory development of TCAs, also in response to the 1968 Near Midair Collision Report. The TCA concept, as a regulatory means of providing positive control in terminal airspace, was added to the Federal Aviation Regulations in Amendments 71–6 and 91–78, which were published in the Federal Register (35 FR 7782) on May 21, 1970, to be effective on June 25 of that year. Those amendments, which defined the nature and operational aspects of TCAs,

followed extensive public comment in response to Notice No. 69–41, issued on September 30, 1969, (34 FR 15252); 22 public meetings; and a supplemental notice of proposed rulemaking (Notice No. 69–41B) issued on March 11, 1970, (35 FR 4519). That regulatory history led to the issuance of § 71.12 of Part 71 of the Federal Aviation Regulations, under which TCAs are issued, and § 91.90 of Pasrt 91 of the Federal Aviation Regulations, which describes the equipment and operating rules for participating in a TCA. The TCA action proposed in this notice is issued under § 71.12 and incorporates, without changing, the provisions of § 91.90. While the safety enhancement plan identifies 44 new locations for possible Group II TCAs, the legal basis for, and description of, the TCA concept was established under these 1970 amendments to Parts 71 and 91. That regulatory concept would not be changed by this notice. It is to be noted that the 44 locations were only proposals. Each site is being evaluated on its own merits. In fact, the FAA's analysis to date has led to dropping the following cities from the original list—Des Moines, Iowa; El Paso, Texas; Jacksonville, Florida; Lihue, Hawaii; Salt Lake City, Utah; and Tucson, Arizona. The evaluation is continuing with the very real possibility that other cities may be dropped, even before the issuance of a notice of proposed rulemaking.

National Benefits

The Plan for Enhanced Safety contains an analysis of the safety increases, in terms of passengers protected, that were expected to result from the establishment of the 44 new TCAs originally under consideration. Six of those proposed sites are on longer under consideration at this time. However, if all of those TCAs were established the original analysis indicates that the percentage of air carrier enplaned passengers protected by mandatory ATC separation, compared with the 21 TCAs in existence in January 1978, would rise from 62 percent to 87 percent. In addition, those TCAs would expand the protected commuter passenger enplanements from 38.5 percent to 49.7 percent (in the contiguous 48 states). While those figures have been reduced because of the reduction of the number of candidate sites, the increased protection at the remaining locations is still substantial. This is during a period in which substantial increases in total enplanements are forecast for both classes of air transportation, with annual air carrier and commuter air carrier enplanements expected to exceed 418 million and 14 million, respectively, by 1989.

Parallel increases are also expected for general aviation. For this large and expanding class, the numbers of aircraft, and the total operations, are forecast to increase by more than 60 percent between 1977 and 1989. In addition, manufacturing trends indicate that increasing proportions of the general aviation fleet are being purchased with equipment intended for operation in the busy terminal airspace in which the "mix" of controlled and uncontrolled aircraft has been identified as a common factor in reported near midair collisions.

For all classes of airspace user, therefore, the FAA believes that the extensive expansion of TCAs at the remaining proposed sites would significantly increase the ability of ATC to provide an effective, additional margin of safety to that furnished by the pilot's duty to see and avoid other aircraft.

Local Benefits

The establishment of a Group II TCA, as proposed in this notice, would make a meaningful contribution to the systemwide increase in safety. At Phoenix Sky Harbor International Airport, enplanements for 1979 were 2.85 million and are forecast to increase to 4.74 million by 1990; aircraft operations are forecast to increase from 444,000 to 550,000 during the same period. Enplanements at Phoenix Sky Harbor International Airport for 1979, based on these forecasts, would represent 1.05 percent of national enplanements while aircraft operations would represent .66 percent of the national total.

Economic Impacts

The FAA is committed to ensuring that the costs of establishing the Phoenix, Arizona, TCA are considered before final regulatory decisions are made. Since these costs may affect other TCA proposals announced in the Plan for Enhanced Safety, a comprehensive economic assessment, covering the entire program as described in that plan, was made available to attendees at the informal airspace meetings held in Phoenix on March 27–28, 1979, and is in the Regional and Washington dockets for public comment. The assessment included systemwide assumptions concerning the impact of all 44 proposed TCAs, including the Phoenix, Arizona, TCA proposal. Since six of the original sites are no longer under current consideration, the cost impact systemwide is even less but the underlying assumptions are still valid as applied to the remaining candidate sites. A detailed addendum to the broad national study has been prepared. This addendum is appended to the national assessment and is also in the Regional and Washington dockets. To assist in this determination, public comment on these economic assessments in invited.

Environmental Impacts

In a manner similar to that described above for the national and local economic assessments, an environmental assessment has been prepared which addresses the overall national environmental assessment effect of the 44 proposed TCAs. This assessment addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the program as a whole, and concludes that these impacts would not significantly affect the quality of the human environment. This national assessment is in the Regional and Washington dockets. In addition, like the economic study, this program-wide assessment has been supplemented with an environmental assessment, to the site-specific impacts of the Phoenix, Arizona, TCA proposal. This local assessment is in both dockets for public comments. The local supplement will assist the Administrator in evaluating local and national environmental impacts before decisions are made concerning the proposed TCA. Public comment on these environmental assessments is invited.

The Proposed Terminal Control Area

The airspace description for the proposed TCA action in this notice was developed by the FAA Western Region in consultation with affected users to minimize the potential impact of the proposal. On February 20, 1979, the FAA held a meeting in Phoenix with airspace user group representatives to consider their operational requirements and to discuss the proposed TCA. Ten additional meetings were subsequently held with the user group representatives. The total spectrum of civil, commercial, and military operations were covered which included, sailplanes, crop dusters, helicopters, law enforcement, and other local aviation interests. On March 27–28, 1979, two informal airspace meetings, open to the public, were held in Phoenix to obtain public participation in the development of an airspace description responsive to the needs of both trasnsicent and local users who might be affected. A report describing these meetings has been placed in the Regional and Washington dockets for public review. Public comment is invited on FAA's proposed disposition of comments and options discussed at the

informal airpspace meetings. There was both support and opposition expressed about the FAA's intention to propose a TCA at Phoenix. The rationale for the proposal to establish additional TCAs has been discussed previously in this notice. This TCA is proposed in order to limit the presence of uncontrolled aircraft in that airspace around Phoenix Sky Harbor International Airport in which the transport of passengers by air carrier and other aircraft is involved, thereby reducing the potential of a midair collision between aircraft. As a result of these meetings and subsequent reviews, the size of the proposed TCA was considerably reduced with the appendage of ingress/egress corridors to the traditional circular TCA configuration as recommended by local user group representatives. These changes will provide additional airspace to all users and release operating areas to sailplanes, crop dusters, experimental aircraft, and other special operations. The proposed TCA airspace over Luke and William Air Force Bases was deleted, as requested by military representatives, to reduce the compression factor and allow freer use of these areas by the military. In addition, approach and departure profiles at Phoenix Sky Harbor International Airport were prepared to evaluate the feasibility of a VFR corridor through the proposed TCA. As a result of this study, a VFR corridor is included in this proposed incorporating the comments and requests by the public.

The following are proposed responses to the remaining comments and recommendations the FAA proposes not to incorporate in the final action. However, specific public comments providing details and data regarding the proposed dispositions are invited so the FAA can assess the correctness of its initial perceptions.

(a) It was stated, fixed wing aircraft operations such as law enforcement surveillance, traffic watch, news gathering the aerial advertising would virtually be eliminated and aerial photography severely hampered.

Traffic density would be the primary controlling factor for authorizing those operations; however, delays would be minimal or nonexistent. The use of positive separation would allow a continual flow of traffic and provide added safety to those operations.

(b) Concern was expressed that the stall and spin practice areas north of Phoenix (Areas J and K) would be eliminated.

To minimize the impact on VFR practice areas, consideration can first be given to restricting the altitude of practice areas to underlie the TCA floor. If this cannot be accomplished, relocation of these areas will be evaluated and only as a last resort would they be eliminated.

(c) It was stated that local conditions, such as an abundance of good sunny weather, should be considered in the design of the TCA.

It is necessary to emphasize that near misses and midair collisions have resulted primarily because of the random mix of uncontrolled VFR and IFR traffic and that the purpose of establishing a TCA is to enhance the safety level between these two types of air traffic. Therefore, the local weather conditions encourages an environment that leads more credence to the need for the proposed TCA. Also, as previoulsy mentioned, a VFR corridor which will provide free transit to airports north and south of Phoenix has been included in this proposal. While uncongested areas (unpopulous) in the terminal area can be a factor in considering the design of a TCA a major concern is congestion in the air rather than the area being overflown.

(d) A statement was made that a 12,500-foot ceiling is unnecessary, unsafe, and economically wasteful.

To provide positive separation for aircraft, the TCA needs to extend to 12,500 feet where a transponder and automatic altitude reporting equipment requirement currently exists. Otherwise, the continuity of the positive separation would not be provided between the TCA and the 12,500-foot level. For the same reason, the FAA is considering raising the upper limits of existing TCAs. The ingress/egress and VFR corridors as proposed in the Phoenix TCA are provided for efficiency as well as safety and should minimize the impact to operators remaining outside of the TCA.

(e) A comment was made that the FAA has already demonstrated the inability of the ATC system to provide adequate Stage III service and a large TCA will compound the delays, inconvenience, expense, and will serve only in compromising safety.

In the original TRSAs, in which State III service is voluntary, approximately 92 percent of all VFR arrivals and approximately 85 percent of all VFR departures elected to participate. This represents an overall arrival and departure participation of approximately 88 percent. The FAA also recognizes there may be some delay as a result of the TCA, particularly in its early phase, but it is anticipated that these delays would be minimal and the FAA will continue to work to minimize the delays while providing an appropriate level of safety. The FAA is continuing its assessment of the fuel consumption impact of the proposed TCA configuration.

(f) It was stated, a TCA will result in procedures that are too restrictive. Futher, the requirements for navigating to remain clear of the TCA will further distract from practicing the "see-and-be-seen" concept.

Procedurally, there would be little or no change from the present Stage III service being provided in the TRSA when the TCA is incorporated at Phoenix. The "see-and-be-seen" concept is still a viable concept to air safety and is being approached by the FAA on two fronts. We are continuing our efforts to improve cockpit visibility by encouraging to use a "Heads Up Display" which would permit the viewing of cockpit instruments at eye level thus markedly improving their ability to look for traffic. Secondly, we are reemphasizing the need to increase pilot vigilance through our Flight Standards Service which administers an ongoing collision avoidance program which includes pilot instruction in visual scanning techniques.

(g) A TCA stagnates airspace usage and, in many cases, renders it unusable.

As previously stated, adjustments to TCA configurations were made and are reflected in the configuration proposed in this notice. As much free airspace for satellite airport operations and for VFR transiting traffic will be designed into the TCA with safety requirements being the primary determining factor. Further, the FAA has and will continue to work with local user groups to ensure the TCA is effective for all users.

(h) The proposed TCA should be designated as a part-time TCA, i.e., in use only during peak traffic periods.

To base on "on-again, off-again" status of a TCA upon varying traffic density periods would compromise safety. The time periods involved in transitioning from an "On-again, off-again" status would result in a false sense of security during the transition period. The users would be separated from all traffic at one moment and only from other IFR traffic the next moment.

(i) The TCA should be designated with two corridors instead of the four ingress/egress corridors being considered.

A two corridor concept TCA would not provide the airspace necessary to effectively and efficiently satisfy the airspace requirements for vectoring, sequencing, and metering the flow of traffic to and from the principle airport. Unnecessary delays would occur under that concept.

(j) There are over 1,300 general aviation (GA) aircraft based in the Phoenix area. The proposed TCA will dangerously compress many of these aircraft into non-TCA airspace.

That comment assumes all or most GA aircraft will not be equipped to operate within the TCA. Our data shows that approximately 80 percent of the aircraft in the Phoenix area have avionics equipment necessary to operate in the TCA. Even so, the floor of the proposed TCA will be established as high as possible, to provide additional amounts of airspace for use by aircraft operating to and from airports underlying the TCA. Additionally, a VFR corridor has been excluded from the TCA airspace in the proposal. This should alleviate many of the anticipated problems associated with the competence of traffic under the controlled airspace.

(k) An alternative to the Phoenix TCA would be the commissioning of ILSs and VORs at satellite airports to help alleviate the congestion at Phoenix Sky Harbor International Airport.

Additional satellite airport navigational aids are being considered for the Phoenix areas as part of our on-going airport modernization plan. We expect that the addition of ILSs and VORs at Phoenix satellite airports would help alleviate some of the congestion at Phoenix Sky Harbor International Airport. However, they would not solve the safety problem concerning the "mix" of controlled and uncontrolled VFR aircraft.

The Proposed TCA Configuration

The FAA is considering the establishment of the proposed TCA under Part 71. The TCA is described in detail below, but in general terms would be multi-tiered and consist of nine "hub and spoke" areas, designated alphabetically, with a VFR corridor. The airspace would extend vertically up to and including 12,500 feet MSL. Base altitudes of the various subdivisions would increase outward from the airport along four ingress/egress corridor appendages from the surface up to and including 10,000 feet MSL. The design is considered to contain the flight paths of large turbine-powered aircraft operating to and from the Phoenix Sky Harbor International Airport and provide added separation to other users close to the airport. A 3 NM wide VFR corridor is provided passing north-south over the Phoenix Sky Harbor International Airport from 4,100 feet MSL up to and including 5,500 feet MSL, and will provide free transit to airports north and south of Phoenix.

The proposed TCA would be established as a Group II TCA; therefore, the requirements of § 91.90(b) would apply to operations within the TCA. This includes ATC authorization to enter the TCA, two-way radio communications within the TCA, and the requirement that large turbine engine powered airplanes remain at or above the designated floors of the TCA segments while operating to or from the primary airport within the TCA. Aircraft operating within the TCA would be required with a VOR or TACAN receiver (except for helicopters), two-way radio, and a transponder. Section 91.90(b) should be reviewed for the details of these provisions.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) by adding a new Group II Terminal Control Area to read as follows:

Subpart K—Terminal Control Areas

§ 71.401 Designation.

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

Primary Airport

Phoenix Sky Harbor International Airport (Lat. 33°26'10"N., Long. 112°00'31"W.)

Boundaries—Based on DME distances and arcs of the Phoenix VORTAC (PHX), Phoenix ASR antenna, Buckeye VORTAC (BXK) and the Casa Grande VORTAC (CZG).

VFR corridor—That airspace extending upward from 4,100 feet MSL to and including 5,500 feet MSL, 3 NM wide centered on a line drawn perpendicular to the PHX 269°T(255°M)/089°T(075°M) radial drawn through the geographical center of the Phoenix Sky Harbor International Airport; and bounded on the north and south by lines 4 NM north and south, respectively, of the PHX 269°T(255°M)/089°T(075°M) radial.

Area A. That airspace extending from the surface upward to and including 12,500 feet MSL bounded by a line beginning at a point 7 NM west of the Phoenix ASR antenna and 4 NM south of the PHX 272°T(258°M) radial; thence north perpendicular to the PHX 272°T(258°M) radial to a point 4 NM north of the PHX 272°T(258°M) radial; thence east to a point 6 NM east of the Phoenix ASR antenna and 4 NM north of the PHX 092°T(078°M) radial; thence south along a line perpendicular to the PHX 092°T(078°M) radial to a point 4 NM south of the PHX 092°T(078°M) radial; and thence to the point of origin; excluding that airspace within the VFR Corridor.

Area B. That airspace extending upward from 2,600 feet MSL to and including 12,500 feet MSL within two areas—

(1) East of the Phoenix Sky Harbor International Airport, bounded on the east by the 10 NM arc of the Phoenix ASR antenna; on the north by a line 4 NM north of, and parallel to, the PHX 092°T(078°M) radial; on the south by a line 4 NM south of, and parallel to, the PHX 092°T(078°M) radial; on the west by a line drawn perpendicular to the PHX 092°T(078°M) radial 6 NM east of the Phoenix ASR antenna; and

(2) West of the Phoenix Sky Harbor International Airport, bounded on the west by the 10 NM arc of the Phoenix ASR antenna; on the north by a line 4 NM north of, and parallel to, the PHX 272°T(258°M) radial; on the south by a line 4 NM south of, and parallel to, the PHX 272°T(258°M) radial; on the east by a line drawn perpendicular to the PHX 272°T(258°M) radial 7 NM west of the Phoenix ASR antenna.

Area C. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL within two areas—

(1) East of Phoenix Sky Harbor International Airport, bounded by a line beginning at the intersection of the 10 NM arc of the Phoenix ASR antenna and a line 4 NM south of, and parallel to, the PHX 092°T(078°M) radial; thence east along this line to the 13 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 13 NM arc until intercepting a line 1.5 NM southeast of, and parallel to, the PHX 066°T(051°M) radial; thence northeast along this line to the 15 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 15 NM arc until intercepting a line 4 NM northwest of, and parallel to, the PHX 051°T(037°M) radial; thence southwest to the 10 NM arc of the PHX ASR antenna; and thence clockwise along the 10 NM arc to the point of origin; and

(2) West of Phoenix Sky Harbor International Airport, bounded on the east and west by the 10NM and 15 NM arcs of the Phoenix ASR antenna, respectively; on the north by a line 4 NM north of, and parallel to, the PHX 272°T(258°M) radial; and on the south by a line 4 NM south of, and parallel to, the PHX 272°T(258°M) radial.

Area D. That airspace extending upward from 4,000 feet MSL to and including 12,500 feet MSL, excluding Area J and that airspace underlying Area J below 5,600 feet MSL within four areas—

(1) and (2) North of the Phoenix Sky Harbor International Airport, within the area bounded by the 10 NM arc of the Phoenix ASR antenna and a line drawn 4 NM north of, and parallel to, the PHX 272°T(258°M)/092°T(078°M) radial; excluding that airspace within Area J, which divides the area into two sectors; and

(3) and (4) South of the Phoenix Sky Harbor International Airport, within the area bounded by the 10 NM arc of the Phoenix ASR antenna and a line drawn 4 NM south of, and parallel to, the PHX 272°T(258°M)/092°T(078°M) radial; excluding that airspace within area J, which divides the area into two sectors.

Area E. That airspace extending upward from 5,000 feet MSL to and including 12,500 feet MSL, within four areas—

(1) and (2) North of the Phoenix Sky Harbor International Airport, bounded by a line

beginning northeast of the Phoenix ASR antenna at the intersection of the 10 NM arc of the Phoenix ASR antenna and a point 4 NM north of, and parallel to, the PHX 051°T(037°M) radial; thence counterclockwise along the 10 NM arc until intercepting a line 4 NM north of, and parallel to, the PHX 092°T(078°M) radial; thence west to the 15 NM arc of the Phoenix ASR antenna; thence clockwise along the 15 NM arc until intercepting a line 1 NM north of, and parallel to, the BXK 079°T(065°M) radial northeast of the Phoenix Sky Harbor International Airport; thence east along this line to the 20 NM arc of the Phoenix ASR antenna; and thence southeast to the point of origin; excluding that airspace within Area J and that airspace underlying Area J above 5,000 feet MSL, which divide the area into two sectors; and

(3) and (4) South of the Phoenix Sky Harbor International Airport, bounded by a line beginning southeast of the Phoenix ASR antenna at the intersection of the 15 NM arc of the Phoenix ASR antenna and the PHX 159°T(145°M) radial; thence north to the intersection of the PHX 150°T(136°M) radial and the 13 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 13 NM arc until intercepting a line 4 NM south of, and parallel to, the PHX 092°T(078°M) radial; thence west along this line to the 10 NM arc of the Phoenix ASR antenna; thence clockwise along the 10 NM arc until intercepting a line 4 NM south of, and parallel to, the PHX 272°T(258°M) radial; thence west until intercepting the 15 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 15 NM arc until intercepting a line 9 NM south of, and parallel to, the PHX 272°T(258°M) radial; thence east along this line until intercepting the 12 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 12 NM arc until intercepting a line 2 NM west of, and parallel to, the Casa Grande VORTAC 339°T(325°M) radial; thence southeast along this line until intercepting the 15 NM arc of the Phoenix ASR antenna; and thence counterclockwise along the 15 NM arc to the point of origin; excluding that airspace within Area J and that airspace underlying Area J above 5,000 feet MSL, which divide the area into two sectors.

Area F. That airspace extending upward from 5,000 feet MSL to and including 12,500 feet MSL within two areas—

(1) Northeast of the Phoenix Sky Harbor International Airport, bounded on the west and east by the 15 NM and 20 NM arcs of the Phoenix ASR antenna, respectively; on the north by a line 4 NM northwest of, and parallel to, the PHX 051°T(037°M) radial; and on the south by a line 1.5 NM southeast of, and parallel to, the PHX 066°T(052°M) radial; and

(2) West of the Phoenix Sky Harbor International Airport, bounded on the east and west by the 15 NM and 20 NM arcs of the Phoenix ASR antenna, respectively; on the north by a line 4 NM north of, and parallel to, the PHX 272°T(258°M) radial; and on the south by a line 4 NM south of, and parallel to, the PHX 272°T(258°M).

Area G. That airspace extending upward from 7,000 feet MSL to and including 12,500 feet MSL within four areas—

(1) North of the Phoenix Sky Harbor International Airport, bounded on the south and north by the 15 NM and 20 NM arcs of the Phoenix ASR antenna, respectively; on the east by a line 1.5 NM east of, and parallel to, the PHX 349°T(335°M) radial; and on the west by a line drawn from the PHX 279°T(265°M) radial/20.5 NM DME fix to the PHX 329°T(315°M) radial/27 NM DME fix;

(2) Northeast of the Phoenix Sky Harbor International Airport, bounded on the west and east by the 20 NM and 25 NM arcs of the Phoenix ASR antenna, respectively; on the north by a line 4 NM northwest of, and parallel to, the PHX 051°T(037°M) radial; and on the south by a line 1.5 NM southeast of, and parallel to, the PHX 066°T(052°M) radial;

(3) Southeast of the Phoenix Sky Harbor International Airport, bounded on the north and south by the 15 NM and 20 NM arcs of the Phoenix ASR antenna, respectively; on the east by the PHX 159°T(145°M) radial; on the west by a line drawn 2 NM west of, and parallel to, the CZG 339°T(325°M) radial; and

(4) West of the Phoenix Sky Harbor International Airport, bounded on the east and west by the 20 NM and 30 NM arcs of the Phoenix ASR antenna, respectively; on the north by a line 4 NM north of, and parallel to, the PHX 272°T(258°M) radial; and on the south by a line 4 NM south of, and parallel to, the PHX 272°T(258°M) radial.

Area H. That airspace extending upward from 8,500 feet MSL to and including 12,500 feet MSL within three areas—

(1) North of the Phoenix Sky Harbor International Airport, bounded on the south and north by the 20 NM and 25 NM arcs of the Phoenix ASR antenna, respectively; on the east by a line 1.5 NM east of, and parallel to, the PHX 349°T(335°M) radial; and on the west by a line drawn from the PHX 279°T(265°M) radial/20.5 NM DME fix to the PHX 329°T(315°M) radial/27 NM DME fix;

(2) Northeast of the Phoenix Sky Harbor International Airport, bounded on the west and east by the 25 NM and 30 NM arcs of the Phoenix ASR antenna, respectively; on the north by a line 4 NM northwest of, and parallel to, the PHX 051°T(037°M) radial; on the south by a line 1.5 NM southeast of, and parallel to, the PHX 066°T(052°M) radial; and

(3) Southeast of the Phoenix Sky Harbor International Airport, bounded on the north and south by the 20 NM and 25 NM arcs of the Phoenix ASR antenna, respectively; on the east by the PHX 159°T(145°M) radial; on the west by a line drawn 2 NM west of, and parallel to, the CZG 339°T(325°M) radial.

Area I. That airspace extending upward from 10,000 feet MSL to and including 12,500 feet MSL within four areas—

(1) North of the Phoenix Sky Harbor International Airport, bounded on the north by a line extending from Lat. 33°54'30"N.; Long. 112°11'00"W.; to Lat. 33°54'40"N.; Long. 112°10'00"W.; thence along a line to Lat. 33°52'20"N.; Long. 111°57'40"W.; thence southeast along a line 1.5 NM east of, and parallel to, the PHX 349°T(335°M) radial until intercepting the 25 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 25 NM arc to the PHX 329°T(315°M) radial/27 NM DME fix; and thence north to the point of origin;

(2) Northeast of the Phoenix Sky Harbor International Airport, bounded by a line extending from Lat. 33°48'30"N., Long. 111°30'30"W.; to Lat. 33°44'45"N., Long. 111°25'45"W.; thence along a line to Lat. 33°36'20"N., Long. 111°20'45"W.; thence to the intersection of the 30 NM arc to the Phoenix ASR antenna and a line 1.5 NM south of, and parallel to, the PHX 066°T(052°M) radial; thence counterclockwise along the 30 NM arc until intercepting a line 4 NM north of, and parallel to, the PHX 051°T(037°M) radial; and thence northeast to the point of origin;

(3) South of the Phoenix Sky Harbor International Airport, bounded by a line extending from Lat. 32°58'30"N., Long. 111°41'10"W.; to Lat. 33°00'00"N., Long. 112°00'20"W.; thence northwest along a line 2 NM west of, and parallel to, the CZG 339°T(325°M) radial to the 25 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 25 NM arc until intercepting the PHX 159°T(145°M) radial; and thence southeast along the PHX 159°T(145°M) radial to the point of origin; and

(4) West of the Phoenix Sky Harbor International Airport, bounded by a line extending west from the intersection of the 15 NM arc of the Phoenix ASR antenna and a line 9 NM south of, and parallel to, the PHX 272°T(258°M) radial (Lat. 33°18'00"N., Long. 112°41'20"W.) to Lat. 33°19'20"N., Long. 112°42'00"W.; thence clockwise along the 21 NM arc of Luke Air Force Base TACAN to Lat. 33°31'10"N., Long. 112°47'40"W.; thence east along a line 4 NM north of, and parallel to, the PHX 272°T(258°M) radial to the 30 NM arc of the Phoenix ASR antenna; thence counterclockwise along the 30 NM arc until intercepting a line 4 NM south of, and parallel to, the PHX 272°T(258°M) radial; thence east along this line to the 15 NM arc of the Phoenix ASR antenna; and thence clockwise along the 15 NM arc to the point of origin.

Area J. That airspace extending upward from 5,600 feet MSL to 12,500 feet MSL within two areas—

(1) North of the Phoenix Sky Harbor International Airport, centered on a line drawn perpendicular to the PHX 269°T(255°M)/089°T(075°M) radial and through the geographical center of the Phoenix Sky Harbor International Airport; within an area between the 15 NM and 10 NM arcs of the Phoenix ASR antenna and east and west boundaries that are parallel lines 3 miles from, and on each side of, the perpendicular centerline; and within the additional area bounded on the southwest, south and southeast by a line drawn from the intersection of the 10 NM arc and the west parallel boundary, thence southeast along a line to a point 4 NM north of the PHX 269°T(255°M) radial and 1.5 NM west of the perpendicular centerline; thence east along a line to a point 4 NM north of the PHX 089°T(075°M) radial and 1.5 NM east of the perpendicular centerline; thence northeast along a line to the intersection of the east parallel boundary and the 10 NM arc; and

(2) South of the Phoenix Sky Harbor International Airport, centered on a line drawn perpendicular to the PHX 269°T(255°M) radial and through the geographical center of the Phoenix Sky Harbor International Airport; within an area between the 15 NM and 10 NM arcs of the Phoenix ASR antenna and east and west

boundaries that are parallel lines 3 miles from, and on each side of, the perpendicular centerline; and within the additional area bounded on the northwest, north and northeast by a line drawn from the intersection of the 10 NM arc and the west parallel boundary, thence southeast along a line to a point 4 NM south of the PHX 269°T(255°M) radial and 1.5 NM west of the perpendicular centerline; thence east along a line to a point 4 NM south of the PHX 089°T(075°M) radial and 1.5 NM east of the perpendicular centerline; thence southeast along a line to the intersection of the east parallel boundary and the 10 NM arc.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

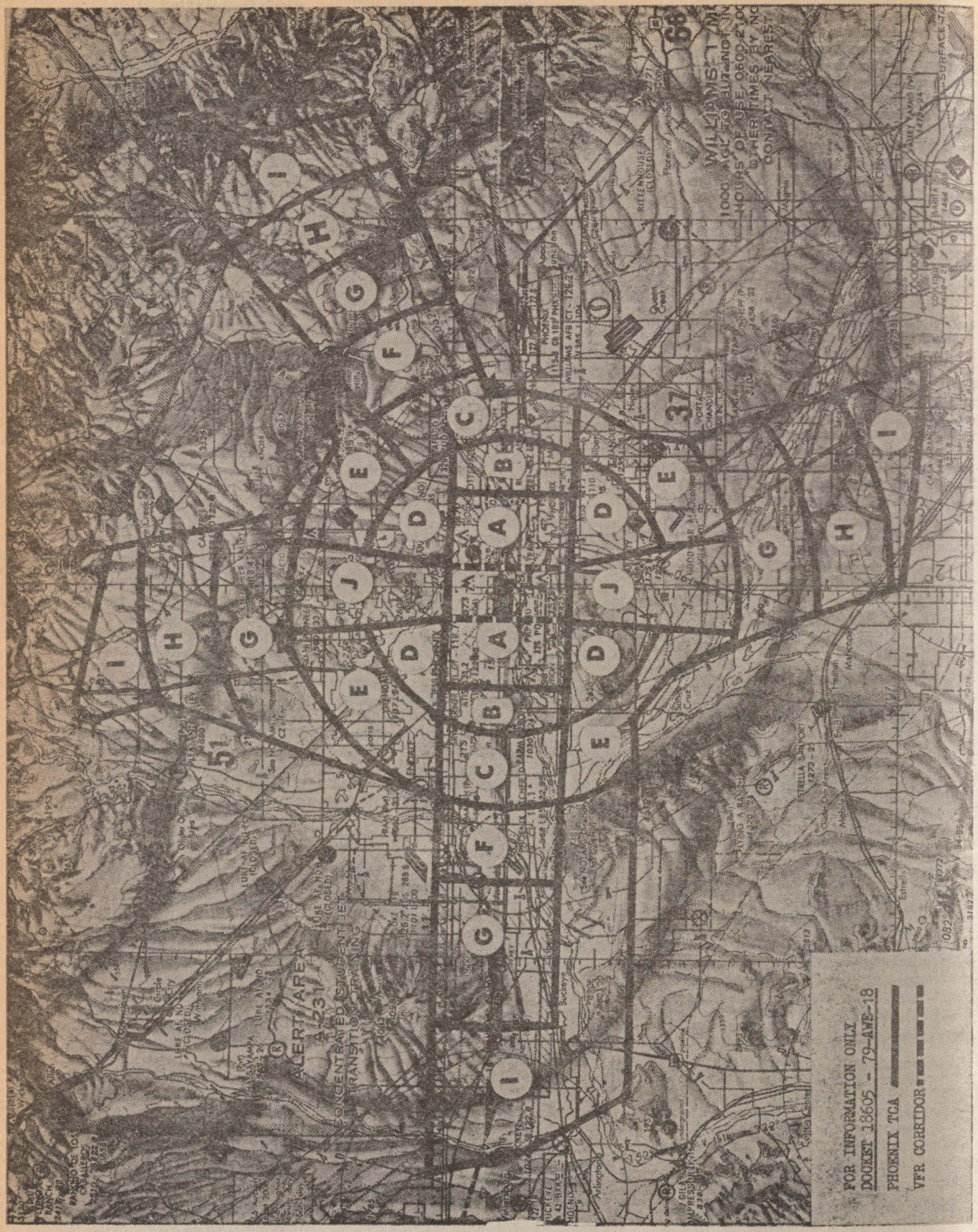
Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). However, establishment of this terminal control area in concert with the proposed establishment or alteration of many other terminal control areas has been determined to be significant. Therefore, this action is included in the draft evaluation prepared in conjunction with that comprehensive action. Copies of the evaluation are in the Washington and Regional dockets, and may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *".

Issued in Washington, D.C., on April 2, 1980.

R. J. Van Vuren,

Acting Director, Air Traffic Service.

BILLING CODE 4910-13-M



[FR Doc. 80-10375 Filed 4-4-80; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket No. 80-AAL-2]

Alteration of Transition Area, Homer, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to alter the Homer, Alaska transition area by expanding the 1,200-foot portion to include the airspace within 30 miles northeast through southeast of the Homer VORTAC. A review of the existing LOC/DME Back Course instrument approach procedure revealed a need for additional controlled airspace northeast of the airport to protect the final approach course to Runway 21. The 1,200-foot transition area expansion to the east and southeast would provide adequate controlled airspace for ATC to more efficiently control aircraft operations using radar control procedures from the en route radar facility which will be relocated from Fire Island to the vicinity of Kenai, Alaska.

DATE: Comments must be received on or before May 3, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attn: Chief, Air Traffic Division, Docket No. 80-AAL-2, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513. An informal docket may be examined at the office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: John G. Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before May 3, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, or by calling (907) 271-5902. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes application procedures.

The Proposal

The FAA is considering an amendment of Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to alter the Homer, Alaska, transition area. This alteration is necessary to provide protected airspace for aircraft conducting the LOC/DME BC RWY 21 instrument approach procedure to the Homer Airport. It will also provide adequate controlled airspace for ATC to more efficiently control aircraft using a new radar facility near Kenai, Alaska, which will replace the en route radar facility on Fire Island.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

Homer, Alaska

Delete all after "(latitude 59°39'08"N., longitude 151°27'22"W.);" and substitute therefor "and that airspace extending upward from 1,200 feet above the surface with a 30-mile radius of the Homer VORTAC extending from the 027°T (003° M) radial clockwise to the 252°T (228°M) radial excluding the portion within Control 1218."

(This amendment is proposed under the authority of § 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Anchorage, Alaska, on March 19, 1980.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 80-10204 Filed 4-4-80; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Chapter V

Improving Government Regulations; Semiannual Agenda of Significant Regulations

AGENCY: National Aeronautics and Space Administration.

ACTION: Semiannual agenda of significant regulations.

SUMMARY: This semiannual agenda describes the significant regulations being considered for redevelopment or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

EFFECTIVE DATE: April 7, 1980.

ADDRESS: Director, Information Systems Division (Code NSM-12), Office of Management Operations, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202-755-3140.

SUPPLEMENTARY INFORMATION: Executive Order 12044, "Improving Government Regulations," and NASA

Management Instruction 1410.10B, "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require that a semiannual agenda of significant regulations under development and review be published in the **Federal Register** on the first Monday in April and the first Monday in October.

Robert A. Frosch,
Administrator.

National Aeronautics and Space Administration

Semiannual Agenda of Significant Regulations

Title	Description	Legal citation	Status	Contact	Regulations analysis required
Space Transportation System (STS) Insurance Indemnification Requirements.	Describes the policy on when users of the Space Transportation System must obtain financial protection against third-party claims and the conditions under which NASA will provide insurance or indemnification of users.	Pub. L. 96-48....	Advance Notice of Proposed Rulemaking.	Richard A. Reeves, Office of General Counsel, NASA Headquarters, Washington, D.C. 20546, 202/755-3924.	No.
STS Services for Users of Small Self-Contained Payloads [1].	Describes the policy for services provided by NASA to users of small self-contained payloads and the implementation of the policy.	42 U.S.C. 2473 .	Proposed Rule.....	Donna J. Miller, Manager, Small Self-Contained Payloads Program, Office of Space Transportation Operations, NASA Headquarters, Washington, D.C. 20546, 202/755-2427.	No.

[1] This Proposed Rule appeared in the FEDERAL REGISTER, Vol. 44, No. 247, Friday, Dec. 21, 1979. Comments were due by Feb. 19, 1980. Comments were received by 21 individuals and are being reviewed and recommendations for revisions to this Proposed Rule will be presented to NASA top management within the next two months.

[FR Doc. 80-10175 Filed 4-4-80; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 752 3122]

Hooper Holmes, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law probiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Basking Ridge, N.J. firm, through its Credit Index Division, a consumer reporting and collection agency, to cease violating federal credit laws by failing to maintain reasonable procedures designed so as to ensure that reports are furnished only for lawful purposes and assure the maximum accuracy of reported information. In its role as a debt collector, the agency would be required to include in collection communications prescribed notices informing consumers of their rights under federal credit laws. Consumers requesting information in their credit files would have to be provided with a copy of this information. Additionally, the agency would be required to mail to its subscribers, each year for a five-year period, a prescribed notice informing them of their statutory obligations.

DATE: Comments must be received on or before June 6, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C., 20580.

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007. (212) 264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR (b)(14)).

[File No. 752-3122]

Hooper Holmes, Inc., and Credit Index Division; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Hooper Holmes, Inc., through its Credit Index Division, and it now appearing that Hooper Holmes, Inc., a corporation, through its Credit Index Division, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Hooper Holmes, Inc., through its Credit Index Division, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Hooper Holmes, Inc., is a corportion organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 170 Mt. Airy Road, Basking Ridge, New Jersey.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the

agreement is inappropriate, improper or inadequate.

5. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service on respondent. Mailing of the complaint and decision containing the agreed to order to the undersigned officer at proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of the complaint here attached.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

Order I

It is ordered, That respondent, Hooper Homes, Inc., a corporation, through its Credit Index Division, it successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection, assembing or furnishing of consumer reports, as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act (Pub. L. No. 91–508, 15 U.S.C. 1681, *et seq.*), shall forthwith cease and desist from:

(1) Failing to maintain reasonable procedures designed to limit the furnishing of consumer reports for the purposes listed under Section 604 of the Fair Credit Reporting Act.

(2) Failing, when preparing a consumer report, to follow reasonable procedures designed to assure maximum possible accuracy of the information concerning the individual about whom the report relates as required by Section 607(b) of the Fair Credit Reporting Act.

(3)(a) Providing reports containing information concerning accounts of individuals having inconsistent courtesy titles, different first names, different last names, different mailing addresses or inconsistent suffixes from the creditor's inquiry unless the respondent can show on a statistically valid basis that its reporting system is reasonably designed to retrieve and report such information only in instances in which the individual consumer inquired on is using different first names and identical or similar last names as a means of deceiving respondent or its subscribers. Respondent shall provide the Commission with copies of any such statistical studies not less than 90 days prior to implementing changes to its system based on such studies and if requested by the Commission will delay implementation of changes an additional 120 days.

(3)(b) For the purposes of this Order:

(i) The last name of the individual reported upon shall not be considered different from the last name of the inquiry if;

(A) The last name contains five or more letters and all but two of the letters are identical to the letters of the last name of the inquiry; or,

(B) The last name has four letters and all but one are identical to the letters of the last name of the inquiry; and

(C) The address used in the inquiry under either A or B is a full street address (specific house or building number plus street name) or post office box number, and does not contain an inconsistent apartment number, a rural route number, general delivery or similar mailing address, and

(D) The inquiry contains a full first name, not initials, which, subject to the tolerances provided in (A) and (B) for last names, is not inconsistent with the first name or initial on the report.

(ii) A first initial which is not inconsistent with the individual's first name shall not be considered a different first name, if respondent:

(A) Instructs its subscribers to use the full first name, whenever available, in making inquiries or submitting information to the file; and

(B) The address used in the inquiry is a full street address (specific house or building number plus street name) or post office box number, and does not contain an inconsistent apartment number, general delivery, rural route number or similar mailing address; and

(C) The inquiry is not made with an inconsistent courtesy title or suffix.

(iii) A first name which is a commonly accepted nickname for the first name of the individual inquired upon shall not be considered a different first name.

(4) Including in any consumer report a "Summary Item", "Activity Summary Item" or other information concerning the credit worthiness of other individuals with the same mailing address as, but with a different last name from, the individual inquired on, provided that the above restriction on Summary Items and Activity Summary Items does not apply to summary or activity reports generated by respondent internally for use by respondent identifying credit applications for which respondent will conduct additional investigation but respondent shall not reject, recommend rejection or otherwise directly or indirectly issue a negative report based solely on a summary or activity item, or on the applicant's failure to respond to a request for additional information from respondent.

Order II

It is ordered, That respondent, Hooper Holmes, Inc., a corporaton, through its Credit Index Division, its successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection of consumer debts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from: Failing to disclose to consumers, in any communication relating to debt collection activities, their rights under the Fair Credit Reporting Act and Fair Debt Collection Practices Act as set forth in the exact facsimile of Exhibit A attached hereto.

(A) *It is further ordered*, That respondent, each year for a five year period, mail to each subscriber the following notice in not less than 12 point bold face type:

Important Notice

Credit Index is a consumer reporting agency subject to the provisions of the Federal Fair Credit Reporting Act. As a user of these reports you also are subject to the

requirements of this law. If you use any information reported by Credit Index in whole or in part in your decision to deny credit, employment or insurance, you must notify the rejected applicant of that fact and provide our name, street address and phone number. Your failure to do so would violate Federal law.

[Insert Name, street address and phone number]

Additionally, Credit Index, upon request and proper identification will disclose all information in its file to consumers by mail and we would appreciate your including this information in your notice also.

(B) *It is further ordered,* That respondent make the disclosures required by Sections 609 and 610 of the Fair Credit Reporting Act for credit reports issued by its Credit Index subsidiary, by mailing a copy of all information (except medical information) in its files on the consumer at the time of the request (or a transcription of all such information) to the consumer upon request and proper identification or, in lieu thereof, in person or by telephone upon specific request by the consumer. If the consumer is provided with a copy of the actual report, he shall also be provided with all information necessary to decode the report.

(C) *It is further ordered,* That respondnet herein shall deliver a copy of this order cease and desist to all present and future personnel of its Credit Index division, including employees and representatives, engaged in the preparation of reports including consumer reports, and engaged in the disclosure and reinvestigation of information in said reports, and that respondent secure a signed statement acknowledging receipt of said order from each person.

(D) *It is further ordered,* That respondent shall provide each consumer who requests disclosure of information in his or her file in accordance with the Fair Credit Reporting Act, with an exact facsimile of Exhibit B attached hereto.

(E) *It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent 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 obligation arising out of the order.

Exhibit A—Fair Debt Collection Practices Act Notice

Credit Index is a debt collector. We are attempting to collect [*insert amount of debt or reference to amount of debt contained elsewhere in communication*] which you allegedly owe [*insert name and address of creditor*].

If you dispute the validity of all, or part, of this debt, we will mail to you a verification of the debt, [or a copy of the judgment] in writing within thirty days of receipt of this notice. *[We will also give you the name of the original creditor, if different from the creditor named above provided you request this information in writing within the same thirty day period.]

If you do *not* dispute the validity of the debt within 30 days from receipt of the notice, we will assume the debt is valid. If you *do* notify us in writing, that all, or part, of the debt is disputed *[or that you wish the name of the original creditor], we will stop collection of the debt until we verify it [or obtain a copy of the judgment against you] *[or provide you the name and address of the original creditor].

Fair Credit Reporting Act Notice

Credit Index is also a "consumer reporting agency". Under the Fair Credit Reporting Act, Credit Index must report information in a manner that is fair and equitable to consumers.

The Fair Credit Reporting Act Gives You the Right:

1. To have incomplete or incorrect information reinvestigated by Credit Index, unless the request is frivolous, and, if the information is found to be inaccurate or cannot be verified, to have such information removed from your file.

2. When a dispute between you and Credit Index about information in your file cannot be resolved, you have the right to have your version of such dispute placed in the file and included in future consumer reports.

3. To be notified whenever information reported by Credit Index is used to deny you credit, or to increase the cost of credit.

4. To telephonic or in-person disclosure, upon proper identification, of the nature and substance and names of sources of the information in your file.

In addition, Credit Index will mail you a copy of all information in your file if you so request. We will also provide you with a more detailed disclosure of your rights under the Fair Credit Reporting Act at the time you request disclosure.

Exhibit B—Know Your Rights Under the Fair Credit Reporting Act

The Fair Credit Reporting Act became law on April 25, 1971. It was passed by Congress to protect consumers against the distribution of inaccurate or obsolete information and to ensure that consumer reporting agencies, such as Credit Index Division, exercise their responsibilities in a manner that is fair and equitable to consumers.

Under this law you can take steps to protect yourself if you have been denied credit, insurance, or employment, or if you believe you have had difficulties because of a consumer report on you. Upon request Credit Index will provide disclosure of file information by mail.

*Bracketed provisions to be used only as applicable: i.e. when the name and address of the original creditor is different from the current creditors or when a judgment has been obtained.

The fair Credit Reporting Act gives you the Right:

1. *To have incomplete or incorrect information reinvestigated, unless the request is frivolous, and, if the information is found to be inaccurate or cannot be verified to have such information removed from your file.*

2. *When a dispute between you and the reporting agency about information in your file cannot be resolved, you have the right to have your version of such dispute placed in the file and included in future consumer reports.*

3. To be told the name and address of the consumer reporting agency responsible for preparing a consumer report that was used to deny you credit, insurance or employment or to increase the cost of credit or insurance.

4. To telephonic or in-person disclosure, upon proper identification, of the nature and substance and names of sources of the information (except medical information) in your file. (To obtain telephonic disclosure you must first make a written request, with proper identification, and you must pay toll charges.)

5. To take any one person of your choice with you when you visit the consumer reporting agency to check your file.

6. To obtain all information to which you are entitled, free of charge (except telephone toll charges), if you request a consumer interview within thirty days after you have been denied credit, insurance or employment. Otherwise, the reporting agency is permitted to charge a reasonable fee for giving you the information.

7. To be told the names of persons or businesses who have received a consumer report on you within the preceding six months, or within the preceding two years if the report was furnished for employment purposes.

8. To have the agency notify (at no cost to you) those you specify who have previously received the incorrect or incomplete information within two years if the report was for employment purposes or within six months for any other purpose, that this information has been deleted from your file.

9. To request the reporting agency to send your version of the dispute to those you name who received reports concerning the disputed information within the past six months (two years if received for employment purposes).

10. To sue a reporting agency for damages if it willfully or negligently violates the Fair Credit Reporting Act, and, if you are successful, you may be entitled to collect attorney fees and court costs.

11. In most instances not have adverse information reported after seven years. One major exception is bankruptcy, which may be reported for ten years.

The Fair Credit Reporting Act does not:

1. Give you the right when you visit the agency to receive a copy of or physically handle your file; however, Credit Index will provide you with a copy upon request either in person or by mail.

2. Compel anyone to do business with an individual consumer.

3. Apply when you request commercial (as distinguished from consumer) credit or business insurance.

4. Authorize any federal agency to intervene on behalf of an individual consumer.

For more detailed information on the Fair Credit Reporting Act or to report a violation of the Act, contact the New York Regional Office of the Federal Trade Commission, 26 Federal Plaza, New York, New York 10007.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Hooper Holmes, Inc., through its Credit Index Division.

The proposed consent order has been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw the agreement or make final the agreement's proposed order.

Credit Index is a consumer reporting agency which issues reports concerning previous delinquent or unpaid obligations reported to it by its subscribers.

The first section of the complaint accompanying the order alleges that Credit Index violated Section 604 of the Fair Credit Reporting Act by responding to requests for information on a consumer applying for credit or other business transactions by including in its reports information concerning individuals having the same mailing address as the individual inquired upon and similar last names. The complaint alleges that in some to these instances, the respondent has furnished information on individuals other than the one inquired on, in violation of the FCRA.

The proposed order generally prohibits Credit Index from future violations of Section 604.

The second complaint allegation, which supplements the first, is that respondent has also violated Section 607(b) of the Fair Credit Reporting Act by including in its reports information concerning all individuals having similar last names but the same mailing address as the consumer inquired upon. Inclusion of this information is alleged to have interfered with the accuracy of the report.

The proposed order generally prohibits future violations of Section 607(b) of the Fair Credit Reporting Act. The order further provides that the respondent may provide reports including information listed under identifiers (e.g. names and addresses) that are inconsistent with the identifiers used in the inquiry only if it can show, on a statistically valid basis, that its reporting system is reasonably designed to retrieve and report such information only in instances in which an individual consumer is using different identifiers as a means of deceiving respondent or its subscribers. The proposed order also prescribes specific rules which respondent must use in determining whether a particular last name or first name is inconsistent with the name in which the inquiry is made prior to performing a statistical analysis of its reporting system.

The third section of the complaint alleges that the respondent has violated Section 5 of the Federal Trade Commission Act through unfair practices in connection with the collection of debts. Respondent is alleged to have forwarded letters to consumers threatening inclusion in respondent's national delinquent debtor file unless the consumer pays allegedly delinquent debts. The following is typical of the demands contained in the letter:

> We have received a report from your creditor on your overdue account. This information is being included in our computerized national delinquent debtor file, and will be reported to anyone of the credit granting firms using our services should they order a credit report on you.
>
> Your record will remain in our system for at least five years unless you take action now to settle this account.
>
> Your credit file will show this serious past due amount with * * *
>
> Enclose this letter with payment in full today * * *

The complaint alleges that in making these demands the respondent failed to disclose to the debtors the material fact that the Fair Credit Reporting Act covers its reporting of credit information and that the consumer has the right to dispute the accuracy of any item of information contained in his or her file, have the respondent investigate such information and delete any inaccurate information or record the current status of incomplete information.

The proposed order corrects this problem by requiring the respondent to provide each consumer to whom it sends such a collection letter with a notice of the consumer's rights under the Fair Credit Reporting Act as well as the notice prescribed by Section 809 of the Federal Fair Debt Collection Practices Act.

The final section of the complaint alleges that respondent has violated Section 5 of the Federal Trade Commission Act by reporting a summary of all items of adverse information reported at the same address as the consumers inquired upon in a name other than the name of the consumer reported on. Similarly, the compliant alleges that respondent violated Section 5 of the Federal Trade Commission Act by reporting in connection with inquiries on a specific consumer, a summary of all inquiries which the respondent has received at the address of the consumer but under names other than the consumer's. The complaint alleges that in a substantial number of instances these summary items have been used to deny credit to consumers based on information which in fact relates to individuals other than the consumers who have applied for credit, including individuals, such as prior residents, neighbors and relatives of the consumer, who have or at some time in the past have had the same mailing address as the consumer.

The proposed order prohibits Credit Index from issuing reports containing "activity" or "summary" items. The order allows Credit Index to use "activity" or "summary" item reports internally to identify credit applications for which respondent will conduct additional investigation, but prohibits respondent from recommending rejection or otherwise directly or indirectly issuing a negative report based solely on a summary or activity item or on an applicant's failure to respond to a request for additional information.

Finally, the order seeks to establish a mechanism under which consumers will have notice of use of respondent's reports and a meaningful opportunity to correct any error by requiring Credit Index to remind its subscribers of their obligation to notify applicants who are rejected based, in whole or in part, on a Credit Index report of that fact and of Credit Index's name and address. The order further requires Credit Index to provide consumers who request disclosure of the information in their file with a copy (or transcription) of the report by mail and a summary of the consumer's right under the Fair Credit Reporting Act.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

A copy of advertising material explaining respondent's reports is attached.[1]

Carol M. Thomas,

Secretary.

[FR Doc. 80-10441 Filed 4-4-80; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 240, 250, and 270

[Releases Nos. 33-6201; 34-16702; 35-21496; IC-11105; File No. S7-827]

Reporting of Supplementary Information on the Effects of Changing Prices

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing amendments to Regulation S-K, the standard instructions for filing forms under the Securities Act of 1933 and the Securities Exchange Act of 1934, and to various registration and reporting forms which would require that certain companies include supplementary information on the effects of changing prices (as specified by Statement No. 33, "Financial Reporting and Changing Prices," of the Financial Accounting Standards Board) in filings with the Commission. In addition, the Commission is proposing an expansion to its safe harbor rule for projections to cover the changing prices information.

DATES: Comments should be received by the Commission on or before May 30, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-827. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: James L. Russell or Clarence M. Staubs, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2133).

SUPPLEMENTARY INFORMATION: Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices" ("FAS 33"), issued by the Financial Accounting Standards Board ("FASB") in September 1979, establishes standards applicable to certain large, publicly held enterprises for the reporting of information relating to certain effects of price changes on such business enterprises. The information called for by FAS 33 is to be presented as supplementary information in any published annual report that contains the primary financial statements of the enterprise. Thus the information is required in annual reports to shareholders and in annual reports on Form 10-K.

Rule 3-17 of Regulation S-X, adopted by the Commission in Accounting Series Release ("ASR") No. 190 (March 23, 1976) (41 FR 13596), requires the disclosure of certain replacement cost information. Subsequent to the FASB's issuance of FAS 33, the Commission announced in ASR No. 271 (October 23, 1979) (44 FR 62888) the deletion of Rule 3-17 with respect to filings containing financial statements for fiscal years ending on or after December 25, 1980, at which time the requirements of FAS 33 will be fully operational. The Commission also announced that, until that time, it would waive the replacement cost requirement with respect to registrants who present current cost information pursuant to FAS 33. In ASR No. 271, the Commission also stated its intention to propose amendments to Regulation S-K [1] that would require registrants subject to the disclosure requirements of FAS 33 to include the specified supplementary information on the effects of changing prices in filings with the Commission under the securities acts. In addition, that release indicated that the Commission intended to propose a safe harbor provision applicable to such disclosures, in recognition of the fact that some of the data is not subject to precise calculation and because various approaches may be taken in its preparation and disclosure. A safe harbor, similar to that provided for replacement cost disclosures, would protect registrants from the imposition of liability for such disclosures unless prepared without a reasonable basis or disclosed other than in good faith.

I. Discussion of Proposed Amendments

The Commission is proposing to amend various reporting provisions to require disclosure by certain registrants of supplementary information on the effects of changing prices pursuant to the provisions of FAS 33 and to provide a safe harbor with respect to changing prices disclosure. Although specific amendments to these reporting provisions are not set forth in this release,[2] the Commission proposes to amend Item 15 of Schedule 14A (17 CFR 240.14a-101) and the following registration forms so as to require changing prices information: Forms S-1 (17 CFR 239.11), S-7 (17 CFR 239.26), S-8 (17 CFR 239.16b), S-11 (17 CFR 239.18), and S-14 (17 CFR 239.23) under the Securities Act of 1933 and Form 10 (17 CFR 249.210) under the Securities Exchange Act of 1934. The amendments specifically proposed in this release are: (1) an addition to proposed Item 12, "Supplementary financial information," of § 229.20 of Regulation S-K [3] and (2) amendments to the general rules and regulations adopted under the various securities acts in order to provide a safe harbor from the applicable liability provisions of these laws for disclosure of information on the effects of changing prices.

The proposed amendments to Regulation S-K would affect only those registrants subject to the reporting requirements of FAS, i.e., public enterprises that prepare their primary financial statements in U.S. dollars and in accordance with U.S. generally accepted accounting principles and that have, at the beginning of the fiscal year for which financial statements are being presented, either (1) inventories and gross property, plant and equipment amounting in the aggregate to more than $125 million, or (2) total assets amounting to more than $1 billion (after deducting accumulated depreciation). The supplementary information would be required on a consolidated basis for registrants who present consolidated financial statements; it would not need to be presented separately for a parent company, an investee company, or other enterprise whose results are included in consolidated financial statements. Furthermore, the information would not be required to be presented for segments of a business enterprise, although such presentations are encouraged by the FASB in FAS 33.

[1] Copies filed with the original documents.

[1] Regulation S-K (17 CFR Part 229) states the requirements applicable to the non-financial statement portions of registration statements under the Securities Act of 1933 and registration statements, annual or other reports under sections 13 and 15(d) and proxy and information statements under section 14 of the Securities Exchange Act of 1934.

[2] This release contains only the proposed amendments to Regulation S-K and to the general rules and regulations. Final rules, if adopted, would include individual amendments to Schedule 14A and to each of the registration forms listed above.

[3] Item 12 has been proposed to be added to Regulation S-K as part of the Commission's development of an integrated reporting system under the securities acts. See Release No. 33-6178, "General Revision of Regulation S-K," January 15, 1980 (45 FR 5943).

The Commission is not proposing to extend the disclosure requirements of FAS to foreign registrants who prepare their financial statements in accordance with generally accepted accounting principles in their country and/or in local currency, even though they have previously been reporting replacement cost information pursuant to ASR No. 190. This is in recognition of the active consideration being given by accounting standard-setting groups in a number of other countries to the development of standards for reporting the effects of changing prices on business enterprises.

The Commission continues to be concerned about the adequacy of disclosures with respect to the impact of inflation and changing prices on an individual registrant's business. The disclosures specified by FAS 33 should be viewed as minumum requirements, and registrants should provide such additional information as may be appropriate for achieving the most relevant reporting in the particular circumstances. Furthermore, the Commission believes that all registrants, including those not required to present FAS 33 information, should provide some discussion of these mattters. Accordingly, the Commission recently proposed amendments[4] to Regulation S-K which would require the inclusion of a description of the effects of changing prices on the registrant's business activities within the management's discussion and analysis of the registrant's financial condition and results of operations.

The other amendments proposed in this release are intended to extend a safe harbor rule to the changing prices information presented by registrants pursuant to either FAS 33 or the above-mentioned proposed amendments to the management's discussion and analysis, as well as to changing prices information of the type required by FAS 33 presented voluntarily by registrants. This safe harbor would be provided by amending the existing safe harbor rule for projections[5] (adopted as a part of the rules and regulations under the various securities acts) to extend its coverage to the changing prices information and by adopting a safe harbor rule under the Investment Company Act of 1940, in view of the absence of a safe harbor rule for projections under the Act.

[4] Release No. 33-6176, "Proposed Amendments to Form 10-K, Regulation S-K, and Related Forms, Rules and Guides" (January 15, 1980) (45 FR 5972).

[5] Although the format to the safe harbor rule for projections will be modified to accommodate this extension, its existing provisions will not be affected by the amendment.

II. Text of Proposed Amendments

It is proposed to amend 17 CFR Chapter II as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. By adding a new paragraph (b) to Item 12 of § 229.20 to read as follows:

§ 229.20 Information required document.

* * * * *

Item 12. Supplementary Financial Information

* * * * *

(b) *Supplementary information on the effects of changing prices.* Information on the effects of changing prices on business enterprises shall be presented by registrants subject to the reporting provisions of Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices," in accordance with the provisions of that Statement. (Disclosures made pursuant to this paragraph are expresly covered by the safe harbor provisons of the general rules and regulations adopted pursuant to the various securities acts.)

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

2. By revising § 220.175 to read as follows:

§ 230.175 Liability for certain statements by issures.

(a) A statement within the coverage of paragraph (b) below which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) below), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to the following statements:

(1) A forward looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a-3(b) and (c) or 14c-3(a) and (b) under the Securities Exchange Act of 1934, a statement reaffirming such forward looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward looking statement: *Provided,* That

(i) At the time such statements are made or reaffirmed, the issuer is subject to the reporting requirements of the Securities Exchange Act of 1934 and has filed its most recent annual report on Form 10-K, or, if the issuer is not subject to the reporting requirements of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933, and

(ii) The statements are not made by or on behalf of an issuer that is an investment company registered under the Investment Company Act of 1940; and

(2) Information relating to the effects of changing prices on the business enterprise, presented in accordance with the provisions of Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices," or pursuant to Item 11 of Regulation S-K (§ 229.20), "Management's discussion and analysis of financial condition and results of operations," and disclosed in a document filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a-3 (b) and (c) or 14c-3 (a) and (b) under the Securities Exchange Act of 1934.

(c) For the purpose of this rule the term "forward looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of the summary of earnings (as called for by Guides 22 and 1 under the Securities Act of 1933 and the Securities Exchange Act of 1934 and by instruction 5 to the Quarterly Report on Form 10-Q); or

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in paragraphs (c) (1), (2), or (3) of this section.

(d) For the purpose of this rule the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of

business, or an artifice to defraud, as those terms are used in the Securities Act of 1933 or the rules or regulations promulgated thereunder.

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

3. By revising § 240.3b–6 to read as follows:

§ 240.3b–6 Liability for certain statements by issuers.

(The text of the proposed revision is identical to § 230.175 above except that reference to the Securities Act of 1933 in paragraph (d) should read "Securities Exchange Act of 1934.")

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

4. By revising § 250.103A to read as follows:

§ 250.103A Liability for certain statements by issuers.

(The text of the proposed revision is identical to § 230.175 above except that reference to the Securities Act of 1933 in paragraph (d) should read "Public Utility Holding Company Act of 1935 and other acts referred to in Section 16(b) thereof.")

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. By adding § 270.0–9 to read as follows:

§ 270.0–9 Liability for certain statements by issuers.

(a) A statement within the coverage of paragraph (b) of this section which is made by an issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (c) below), unless it is shown that such statement was made without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to information relating to the effects of changing prices on the business enterprise, presented in accordance with the provisions of Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices," or pursuant to Item 11 of Regulation S–K (§ 229.20), "Management's discussion and analysis of financial condition and results of operations," and disclosed in a document filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) For the purpose of this rule the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Investment Company Act of 1940 or the rules or regulations promulgated thereunder.

* * * * *

These amendments are proposed to be effective for filings that include financial statements for fiscal years ending on or after December 25, 1980.

(These amendments are being proposed pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; section 20 (15 U.S.C. 79t) of the Public Utility Holding Company Act of 1935; and section 38(a) (15 U.S.C. 80a–37(a)) of the Investment Company Act of 1940)

Note.—Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposed amendments on competition and is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition.

By the Commission.

George A. Fitzsimmons,

Secretary.

March 27, 1980.

[FR Doc. 80-10313 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CCGD5–80–06R]

Safety of Life on Navigable Waters

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: This proposed rule details the special local regulations which are intended to be established for the City of Norfolk Harborfest regatta. These special local regulations are being established to limit access to and control vessel traffic within the immediate vicinity of the regatta. Due to the confined nature of the waterway and the expected congestion at the time of the regatta, these regulations are necessary to promote the safety of life on the Elizabeth River at Norfolk and Portsmouth, Virginia, immediately before, during, and immediately after the regatta. The area subject to these regulations will be those waters of the Elizabeth River and its branches from shore to shore and bounded by the Midtown tunnel on the north, the Downtown tunnel on the south, and the Berkley Bridge on the east.

DATES: All comments received before April 14, 1980 will be considered. The proposed effective date is from 5 p.m. EDST until 9:30 p.m. EDST on May 24, 1980.

ADDRESS: Comments should be submitted to and are available for examination at the Office of the Commander (b), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Ronald T. Via, Commander (b), Chief Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth Virginia 23705 (804–398–6202).

SUPPLEMENTARY INFORMATION: The establishment of special local regulations to ensure the safety of life on the navigable waters of the United States immediately before, during, and immediately after a regatta is authorized by 46 U.S.C. 454 and 33 CFR 100.35, as amended.

Drafting Information

The principal persons involved in drafting this proposal are LCDR Ronald T. Via, Project Manager, Fifth Coast Guard District, Boating Safety Division, and Lt. Cheryl J. Avery, Project Attorney, Assistant Legal Officer, Fifth Coast Guard District.

Accordingly, the following local regulations are proposed:

§ 100.35 Special local regulations.

(a) Except for participants in the Norfolk Harborfest or persons or vessels authorized by the Coast Guard Patrol Officer, no persons or vessel may enter or remain in the area of the waters of the Elizabeth River and its branches from shore to shore and bounded by the Midtown tunnel on the north, the Downtown tunnel on the south, and the Berkley Bridge on the east.

(b) The operator of any vessel in the immediate vicinity of this area shall:

(1) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer displaying a Coast Guard emblem, and

(2) Proceed as directed by any Coast Guard officer or petty officer.

(c) Any spectator vessel may anchor outside of the area specified in paragraph a. of these regulations;

(d) The Coast Guard Patrol Commander is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District. The Patrol Commander will be stationed at the reviewing platform at Town Point; and

(e) These regulations and other applicable laws and regulations shall be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard ensign.

(Sec. 1, Pub. L. 60–102, 35 Stat. 69, 46 U.S.C. 454; Sec. 6(b)(1), Pub. L. 92–401, 80 Stat. 937, 49 U.S.C. 1655(b)(1); 33 CFR 100.35, 49 CFR 1.46(b))

Dated: March 27, 1980.

T. T. Wetmore, III,

Commander, Fifth Coast Guard District.

[FR Doc. 80–10503 Filed 4–4–80; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD 80–035]

Drawbridge Operation Regulations; Port Clinton, Ohio; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 80–9644 appearing on page 20983 in the Federal Register of Monday, March 31, 1980, the location of the Monroe Street Bridge was incorrectly identified as Portage, Ohio. This should be changed to Port Clinton, Ohio where it appears in the heading of the document, the summary statement, and the heading of § 117.705b.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/TP14), Room 1414, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20593 (202–426–0942).

Dated: April 2, 1980.

K. G. Wiman,

Captain, U.S. Coast Guard, Deputy Chief, Office of Marine Environment and Systems.

[FR Doc. 80–10451 Filed 4–4–80; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1453–8]

Receipt of Supplementary Information for Arkansas Implementation Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt.

SUMMARY: This is a notice of receipt of supplemental information requested from the State of Arkansas as required by the notice of final rulemaking published in the Federal Register on January 29, 1980 (45 FR 6569).

ADDRESSES: Copies of the Arkansas supplemental information are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270

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

Arkansas Department of Pollution, Control, and Ecology, 8001 National Drive, Little Rock, Arkansas 72209

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2742.

SUPPLEMENTAL INFORMATION: The State of Arkansas was required to submit additional information by December 15, 1979 to satisfy the conditions of approval as stipulated in the Arkansas notice of final rulemaking. The State has complied with this requirement and their submission is presently being reviewed by the Environmental Protection Agency (EPA). The Arkansas submittals are as follows:

§ *52.174 Compliance schedule.*

(a)(1) Regulation 4.5(a) of the Regulations for the Control of Volatile Organic Compounds has been revised to include a final compliance date.

§ *52.177 Review of new sources and modifications.*

(a)(1) The State of Arkansas modified and submitted to EPA a definition for lowest achievable emission rate (LAER).

The conditional approval of the State Implementation Plan (SIP) will be continued until final action on the State's submittal is published in the Federal Register.

This notice is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410(a).

Dated: March 21, 1980.

Adlene Harrison,

Regional Administrator.

[FR Doc. 80–10031 Filed 4–4–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 712

[OTS–082004b; FRL 1385–4]

Pesticides and Toxic Substances; General Recordkeeping Requirement: Preliminary Assessment Information

Correction

In FR Doc. 80–5188 appearing on page 13646 in the issue of Friday, February 29, 1980, the date given for the receipt of comments now reading "May 6, 1980" should have read "May 14, 1980".

BILLING CODE 1505–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Ch. XI

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: National Foundation on the Arts and the Humanities.

ACTION: Publication of the Semiannual of Regulations (Improving Government Regulations).

SUMMARY: The President's Executive Order on improving Govnernment Regulations Executive Order 12044, requires each Federal agency to publish at least twice a year a list of a significant regulations under development. The Foundation plans to publish its semiannual agenda by the first Monday in October and the first Monday in April.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Wade, General Counsel, National Endowment for the Arts, 2401 E Street, N.W., Washington, D.C. 20506, 202 634–6588, or Mr. Joseph Schurman, General Counsel, National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C. 20506 202–724–0367.

SEMIANNUAL AGENDA OF REGULATIONS: At the present time there are no significant regulations under development or review in the Foundation itself or in its components, the Federal Council on the Arts and the Humanities, the National Endowment for the Arts, or the National Endowment for the Humanities.

Joseph D. Duffey,

Chairman, National Endowment for the Humanities, and Chairman, Federal Council on the Arts and the Humanities.

Livingston L. Biddle,

Chairman, National Endowment for the Arts.

[FR Doc. 80–10213 Filed 4–4–80; 8:45 am]

BILLING CODE 7536–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

45 CFR Part 1300

Consolidated Grants to Insular Areas

AGENCY: Office of Human Development Services (HDS), HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Human Development Services is proposing this regulation to implement the program of consolidated grants to the Insular Areas authorized by Title V of Pub. L. 95–134, the Omnibus Territories Act, as amended. Title V authorizes each Federal agency to consolidate into a single grant award all grant funds to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands (The "Insular Areas"). The Department of Health, Education, and Welfare decided that only formula grant funds would be eligible for consolidation. This regulation specifies the formula grant funds eligible for consolidation, describes the general application process and specifies post award requirements.

EFFECTIVE DATE: Written comments will be specified until May 22, 1980.

ADDRESS: Send comments on these regulations to: Division of Policy Coordination, Office of Human Development Services, Room 324E, HHH Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–3077. Comments received will be available for inspection and copying at: Room 334F–4, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Weekdays (Federal holidays excepted) between the hours of 9:00 a.m. and 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: William F. Renahan, Division of Policy Coordination, Office of Human Development Services, Room 334F–4, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–3077.

SUPPLEMENTARY INFORMATION:

Background

Section 501 of Pub. L. 95–134, the Omnibus Territories Act, as amended, permits Federal agencies to revise existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands (The "Insular Areas"). Specifically that section permits:

(a) A Federal agency to consolidate any or all grants to each of these Insular Areas and to waive requirements for matching funds, applications, and reports with respect to the consolidated grants, and

(b) An Insular Area to use the consolidated grant funds for any purpose or purposes authorized under any of the grant programs that have been consolidated.

The Secretary of Health, Education, and Welfare has decided that the Public Health Service, the Office of Education and the Office of Human Development Services (HDS) would allow consolidation of formula grant funds *only* and that matching, application, and reporting requirements would *not* be waived.

This regulation applies only to formula grant funds available from the Office of Human Development Services to the Insular Areas. The specific procedures on how to apply, report and use the funds will be published at a later date with an opportunity for public comment.

Affected HDS Formula Grants

Under these proposed regulations, an Insular Area may apply for a grant consolidating funds available for social services under the following titles of the Social Security Act:

Title I—Grants to States for Old-Age Assistance and Medical Assistance for the Aged
Title IV, Part A—Aid to Families with Dependent Children
Title IV, Part B—Child Welfare Services
Title X—Grants to States for Aid to the Blind
Title XIV—Grants to States for Aid to the Permanently and Totally Disabled
Title XVI—Grants to States for Aid to the Aged, Blind, or Disabled
Title XX—Grants to States for Services (as funds are available)

Effect on Insular Area

This regulation would allow an Insular Area to apply for one grant award consolidating all social service funds available under the above Social Security Act titles. If an Insular Area chose to apply for a consolidated grant award, it could submit a single application and a single post-award report. Except for funds made available under Title XX, the Insular Area would be able to spend the funds received under the consolidated grant for any of the titles included in the consolidated grant award. Under Section 2002(a)(2)(C) and (D) of the Act, we can make available to the Insular Areas Title XX funds that States verify they will not need. However, the Insular Areas may use those funds only for services authorized under Titles I, IV, X, XIV, and XVI. The Insular Area would be able to decide how to allocate all funds received under the grant among the various titles consolidated under the grant award.

Participation by an Insular Area in the consolidated grant program is voluntary. If an Insular Area does not wish to participate in the consolidated grant program, it must follow current application and reporting procedures to receive funds for each of the above Social Security Act titles.

Summary of this Regulation

Section 1300.1 Describes the statutory basis and purpose of this regulation
Section 1300.2 Identifies the eligible Insular Areas and lists the Social Security Act titles which may be included in a consolidated grant award
Section 1300.3 Defines terms used in this subpart
Section 1300.4 Describes the general procedures for applying for consolidated grant award
Section 1300.5 Describes the matching funds requirements
Section 1300.6 Describes how funds may be used under the consolidated grant award
Section 1300.7 Describes the reporting requirements

Regulatory Analysis: This regulation has been reviewed under Executive Order 12044. It does not require a regulatory analysis since it does not meet the threshold of the criteria on economic impact.

Authority: These regulations are issued under Sec. 501 of Title V of Pub. L. 95–134, The Omnibus Territories Act, as amended 48 U.S.C. 1469.

Dated: November 9, 1979.

Joseph A. Mottola,

Acting Assistant Secretary for Human Development Services.

Approved: March 31, 1980.

Patricia Roberts Harris,

Secretary.

PART 1300—GENERAL REGULATIONS

HDS Proposes to Amend Title 45 to add a New Part 1300 consisting of Subpart A to read as follows:

Subpart A—Consolidated Grants to Insular Areas

Sec.
1300.1 Basis and purpose.
1300.2 Scope.
1300.3 Definitions.
1300.4 Grant application procedures.
1300.5 Matching funds requirements.

Sec.

1300.6 Use of consolidated grant funds.
1300.7 Reporting requirements.

Authority: Sec. 501 of Title V of Pub. L. 95–134, the Omnibus Territories Act, as amended (48 U.S.C. 1469).

Subpart A—Consolidated Grants to Insular Areas

§ 1300.1 Basis and purpose.

The purpose of this subpart is to implement Title V of Pub. L. 95–134, the Omnibus Terrritories Act, as amended, by allowing an Insular Area to submit a single application and other supporting documentation in order to receive a single grant award consolidating the formula grant funds available for social services under certain titles of the Social Security Act. An additional purpose of this subpart is to permit an Insular Area to allocate the funds among the various titles consolidated under the grant award.

§ 1300.2 Scope.

These regulations apply to the consolidation of formula grant funds for social services available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands under the following Social Security Act titles administered by the Office of Human Development Services:

Title I—Grants to States for Old-Age Assistance and Medical Assistance for the Aged
Title IV, Part A—Aid to Families with Dependent Children
Title IV, Part B—Child Welfare Services
Title X—Grants to States for Aid to the Blind
Title XIV—Grants to States for Aid to the Permanently and Totally Disabled
Title XVI—Grants to States for Aid to the Aged, Blind, or Disabled.
Title XX—Grants to States for Services (as funds are available)

§ 1300.3 Definitions.

(a) "Assistant Secretary" means the Assistant Secretary for Human Development Services.

(b) "Consolidated Grant Award" means the single quarterly grant award to an Insular Area, the funds for which are derived from the formula allocations under the programs specified in § 1300.2, *Scope*.

(c) "Insular Area" means the Virgin Islands, Guam, American Samoa, The Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

§ 1300.4 Grant application procedures.

An Insular Area may apply for a grant award consolidating the formula grant funds specified in § 1300.2, *Scope*, by submitting a single grant application and budget rather than the various applications, budgets, and any supporting documents which must be submitted under any of the Social Security Act titles specified in § 1300.2, *Scope*. The single application must be submitted within time limits and in the format prescribed by the Assistant Secretary in guidelines.

§ 1300.5 Matching funds requirements.

Grant funds awarded under a consolidated grant are subject to the matching funds requirements applicable to the Social Security Act titles under which the funds are made available.

§ 1300. Use of consolidated grant funds.

(a) An Insular Area may use funds awarded in any fiscal year under the titles listed in § 1300.2, *Scope*, for any social services authorized by any of the titles listed in that section, except that funds made available under Title XX may only be used for social services authorized by Titles I, IV-A, X, XIV or XVI.

(b) Except as provided in these regulations, social services funds spent for an social services authorized by any of the Titles listed in § 1300.2, *Scope*, are subject to the statutory and administrative requirements applicable to those social services.

§ 1300.7 Reporting requirements.

An Insular Area which receives a consolidated grant under this subpart must submit a single report on the use of the funds to the Assistant Secretary. The single report must be in the format and contain the information prescribed by the Assistant Secretary in guidelines.

[FR Doc. 80–10359 Filed 4–4–80; 8:45 am]
BILLING CODE 4110–92–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30 and 151

[CGD 80–02]

Revisions to Subchapter D Lists of Flammable and Combustible Bulk Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rules.

SUMMARY: The Coast Guard proposes to revise two tables found in its regulations which lists flammable and combustible cargoes that may only be transported in bulk in certificated tank vessels. The revisions would add to the lists cargoes that the Coast Guard has evaluated and determined to be flammable or combustible in the period since the tables were last revised. In addition, certain editorial corrections would be made to the present tables.

DATE: Comments must be received on or before May 22, 1980.

ADDRESS: Comments should be mailed to Commandant (G–CMC/24) (CGD 80–02), U.S. Coast Guard, Washington, DC 20593. Between the hours of 7:30 a.m. and 4:30 p.m., Monday through Thursday, except holidays, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis Payne, Office of Merchant Marine Safety (G–MHM/14), Room 1403, U.S. Coast Guard Headquarters, Washington, DC 20593 (202) 426–6260.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each should include the name and address of the person submitting the comment, identify this notice (CGD 80–02), and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped, self-addressed postcard or envelope. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments will be available for examination by interested persons. No public hearing is planned but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. Curtis Payne, Project Manager, Office of Merchant Marine Safety, and Mr. Coleman Sachs, Project Counsel, Office of the Chief Counsel.

Discussion of the Proposed Regulation

Table 30.25–1 in Title 46, Code of Federal Regulations contains a listing of cargoes that have been found to be flammable or combustible and may therefore be transported in bulk only in vessels certificated under the rules of Subchapter D, which prescribe construction, equipment, and operational standards for tank vessels carrying such cargoes. Table 151.01–10(d), also in Title 46, contains what should be an identical listing of bulk

cargoes to advise those dealing with tank barges certificated under Subchapter D of the restrictions on the carriage of these cargoes. If a flammable or combustible cargo is not included in these lists, Coast Guard approval must be obtained before it is transported in bulk in tank vessels. Through its processing of requests for such approval, the Coast Guard has evaluated and classified a number of additional flammable and combustible cargoes. In establishing the presence of these characteristics, the Coast Guard considers a liquid to be combustible if it has an open cup flashpoint above 80° F and flammable if it gives off flammable vapors at or below a temperature of 80° F. By revising the tables to include recently classified flammable or combustible cargoes, this proposal would eliminate the necessity for Coast Guard approval to be obtained to transport these cargoes in bulk.

In addition, this proposal would correct a number of entries in the present tables which contain typographical errors or misspellings, or which are not placed in proper alphabetical order, or had been previously omitted as a result of printer's error.

The revised list of flammable and combustible cargoes that would replace those presently found in both tables is printed below, with a asterisk (*) placed beside each new entry that would be included under this proposal.

This proposal has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" published on February 26, 1979 (44 FR 11034), and is not considered a significant rulemaking. A draft evaluation of the proposal has been prepared and included in the public docket. This may be obtained from the Marine Safety Council at the address indicated above.

In consideration of the foregoing, the Coast Guard proposes to amend Parts 30 and 151 of Title 46, Code of Federal Regulations as follows:

§§ 30.25–1 and 151.01–10 [Amended]

1. By revising the contents of Table 30.25–1 in Part 30 and Table 151.01–10(d) in Part 151 to read as follows:

Acetone.
Acetophenone.*
Acetyl Tributyl Citrate.*
Alcohols (Mixed).*
Alkenylsuccinic Acid.*
Alkenylsuccinic Anhydride.*
Alkyl Benzene Sulfonic Acid (4 % or less).*
Alkyl Phthalates (n-).*
Alkyl Succinate Formaldehyde Hydroxy Amino Condensate (3.2 % or less).*
Amyl Acetate (iso-, n-).
Amly Alcohol (n-).
Amylene.*
Amyl Methyl Ketone.*
Amyl Tallate.
Asphalt.
Asphalt Blending Stocks:
  Roofers Flux.
  Straight Run Residue.
Behenly Alcohol.*
Benzyl Alcohol.*
Bicyclic Terpenel Polyamine Amide Salt.*
Butane.
Butyl Acetate (iso-, n-, sec-).
Butyl Alcohol (iso-, n-, sec-, tert-).
Butyl Benzyl Phthalate.
Butylene.
1,3 Butylene Glycol.
Butylene Polyglycol.*
Butyl Heptyl Ketone.*
Butyl Methyl Ketone.*
Butyl Sterate.*
Butyl Toluene.*
Butyrolactone (Gamma).*
Calcium Alkylphenate.*
Calcium Alkyl Salicylate.*
Calcium Amino Nonly Phenolate.*
Calcium Carboxylate.*
Caprolactam Solutions.*
Carbon Black Base.*
Cetyl Alcohol (Hexadecanol).*
Cetyl Stearly Alcohol.*
Cleaning Spirit (unleaded).*
Cumene.
Cycloaliphatic Resins.
Cyclohexane.
Cyclohexanol.
Cyclopentadiene Polymers.*
Cymene (para-1).
Decaldehyde (iso-, n-).
Decane.*
Decene.
Decyl Alcohol (iso-, n-).
Decyl Benzene (n-).
Detergent Alkylate.*
Diacetone Alcohol.
Dibutyl Carbinol.*
Dibutyl Phthalate (ortho-).
Dicyclopentadiene.*
Diethylbenzene.
Diethylene Glycol.
Dietylene Glycol Diethl Ether.*
Diethylene Glycol Monobutyl Ether (Methyl Carbitol).
Diethylene Glycol Monobutyl Ether Acetate.
Diethylene Glycol Monobutyl Ether.
Diethylene Glycol Monobutyl Ether Acetate.*
Diethylene Glycol Monobutyl Ether.
Diethylene Glycol Monobutyl Ether Acetate.*
Diethylene Glycol Monobutyl Ether.*
Di (Ethylhexyl) Phthalate.*
Diethly Phthalate.*
Diglycidly Ether of Bispenol A.
Diheptyl Phthalate.
Dihexyl Phthalate.*
Diisobutyl Carbinol.
Diisobutylene.
Diisobutyl Ketone.
Diisobutyl Phthalate.*
Diisodecyl Phthalate.
Diisononyl Phthalate.*
Diisooctyl Phthalate.*
Diisopropl Benzene.*
Dimethyl Phthalate.*
2,2-Dimethly propane-1, 3-Diol.*
Dinonyl Phtahlate.
Di(Octyl Phenyl) Amine.*
Dioctyl Phthalate.
Dipentene.*
Diphenyl.*
Diphenyl-Diphenyl Oxide.
Diphenyl Ether.*
Dipropylene Glycol.*
Dipropylene Glycol Monomethly Ether.*
Distillates:
  Flashed Feed Stocks.
  Straight Run.**
Diundecyl Phthalate.*
Dodecane.*
Dodecanol.
Dodecene.*
Dodecylbenzene (commercial).
Epoxylated Linear Alcohols, C11–C15.
Ethane.
Ethoxyethanol.*
Ethoxyethyl Acetate.*
Ethoxylated Alcohols, C11–C15.
Ethoxy Triglycol (crude).
Ethyl Acetate.
Ethyl Alcohol.
Ethyl Amyl Ketone.*
Ethyl Benzene.
Ethyl Butanol.
Ethyl Cyclohexane.*
Ethylene.
Ethylene Carbonate.*
Ethylene Glycol.
Ethylene Glycol Diacetate.*
Ethylene Glycol Methyl Butyl Ether.*
Ethylene Glycol Monobutyl Ether.
Ethylene Glycol Monobutyl Ether Acetate.
Ethylene Glycol Monoethyl Ether.
Ethylene Glycol Monoethyl Ether Acetate.
Ethylene Glycol Monoisopropyl Ether.*
Ethylene Glycol Monomethyl Ether.*
Ethylene Glycol Monomethyl Ether Acetate.*
Ethylene Glycol Phenyl Ether.*
Ethylene-Propylene Copolymer.*
Ethylhexaldehyde.
Ethylhexanoic Acid.*
2-Ethyl Hexanol.
Ethylhexoic Acid.*
Ethyl Hexyl Phthalate.*
Ethyl Hexyl Tallate.
Ethyl Toluene.*
Fatty Acid Amides.*
Formamide.*
Furfuryl Alcohol.
Gas Oil, Cracked.
Gasoline Blending Stocks:
  Alkylates.
  Reformates.
Gasolines:
  Automotive (containing not over 4.23 grams lead per gallon).
  Aviation (containing not over 4.86 grams lead per gallon).
  Casinghead (natural).
  Polymer.
  Straight Run.
Glycerine.
Glycerol.*
Glyceryl Triacetate.*
Glycidy Ester of tertiary Carboxylic Acid.*
Glycidyl Ester of Versatic Acid.*
Glycol Diacetate.
Glycols, Resins, & Solvents Mixture.*
Glycol Triacetate.*
Glyoxal (40%).
Grease.*
Heptadecane.
Heptane.
Heptanoic Acid.*
Heptanol.

Heptene.*
Herbicide (C_{15}-H_{22}-NO_3-Cl).*
Hexaethylene Glycol.*
Hexamethylene Glycol.*
Hexane (iso-, n-).
Hexanol.
Hexene.
Hexyl Actetate.*
Hexylene Glycol.
Hog Grease.*
Isophorone.
Jet Fuels:
  JP-1 (Kerosene).
  JP-3.
  JP-4.
  JP-5 (Kerosene, Heavy).
Kerosene.
Lactic Acid.*
Lard.*
Latex, Liquid Synthetic.
Magnesium Nonly Phenol Sulfide.*
Magnesium Sulfonate.*
Maleic Anhydride Copolymer.*
2-Mercaptobenzothiazole.*
Methane.**
Methoxy Triglycol.*
Methyl Acetate.
Methyl Acetoacetate.*
Methyl Alcohol.
Methyl Amyl Acetate.
Methyl Amyl Alcohol.
Methyl Amyl Ketone.*
Methyl Butanol.*
Methyl Ethyl Ketone.
Methyl Formal (Dimethyl Formal).
Methyl Heptyl Ketone.*
Methyl Isobutyl Carbinol.
Methyl Isobutyl Ketone.**
Methyl Naphthalene.*
Methyl Pentene.*
Methyl Pyrrolidone (n-).*
Methyl tert-Butyl Ether.*
Mineral Spirits.
Naphtha:
  Aromatic (10% or less benzene).*
  Cracking Fraction.*
  Heavy.*
  Paraffinic.*
  Petroleum.
  Solvent.
  Stoddard Solvent.
  Varnish Makers' and Painters' (75%).
Naphthenic Acid.*
Nonane.
Nonanoic Acid.*
Nonanoic-Tridecanoic Acid Mixture.*
Nonene.
Nonyl Alcohol.
Nonyl Phenol.
Nonyl Phenol (ethoxylated).
Nonyl Phenol Sulfide (30% or less).*
Octadecene.*
Octadecenoamide (Oleamide).*
Octane.*
Octene.
Octyl Acetate.*
Octyl Alcohol (iso-, n-).
Octyl Aldehyde (iso-).
Octyl Epoxytallate.
Octyl Phthalate.*
Oils:
  Absorption.
  Aliphatic.*
  Animal.*
  Aromatic.
  Aviation F2300.*
  Clarified.
  Coal.
  Coal Tar.
  Croton.
  Crude.
  Diesel.
  Fuel Oils:
  No. 1 (Kerosene).
  No. 1-D.
  No. 2.
  No. 2-D.
  No. 4.
  No. 5.
  No. 6.
  Gas, Low Pour.*
  Gas, Low Sulphur.*
  Heartcut Distillate.
  Lanolin.*
  Linseed.
  Lubricating.
  Mineral.
  Mineral Seal.
  Motor.
  Neatsfoot.
  Oiticica.*
  Penetrating.
  Perilla.*
  Pilchard.*
  Pine.*
  Range.
  Residual.
  Resin.
  Resinous Petroleum.
  Road.
  Rosin.
  Seal.*
  Soapstock.*
  Sperm.
  Spindle.
  Spray.
  Tall.
  Tall, Fatty Acid.*
  Tanner's.
  Transformer.
  Tung.*
  Turbine.
  Whale.*
  White (Mineral).*
  Wood.*
Edible Oils, including:
  Babassu.*
  Beechnut.*
  Castor.
  Cocoa Butter.*
  Coconut.
  Coconut Oil Fatty Acid.*
  Coconut Oil, Esterified.*
  Coconut Oil, Methyl Ester.*
  Cod Liver.*
  Corn.*
  Cotton Seed.
  Cotton Seed Fatty Acid.*
  Fish.
  Grapeseed.*
  Groundnut.*
  Hazelnut.*
  Lard.
  Maize.*
  Mustard Seed.*
  Nutmeg Butter.*
  Olive.
  Palm.
  Peanut.
  Poppy.*
  Raisin Seed.*
  Rapeseed.*
  Rice Bran.*
  Safflower.
  Salad.*
  Sesame.*
  Soya Bean.
  Soybean (Epoxidized).
  Sunflower Seed.*
  Tucum.
  Vegetable.
  Walnut.*
Oleic Acid.*
Oleyl Alcohol (Octadecenol).*
Organic Amine 70 (mixture of high molecular weight alcohol amines).*
Pentadecanol.
Pentaethylen Glycol.*
Pentane (iso-, n-).
1-Pentene.
Petrolatum.
Phosphosulfurized Bicyclic Terpene.
Phthalate Plasticizers.
Pinene.*
Polyalkenyl Succinic Anhydride Amine.*
Polyamine, Amide Mixture.*
Polybutene.
Polyethylene Glycols.
Polyisobutylene.*
Polymerized Esters.
Polypropylene.
Polypropylene Glycols.
Polypropylene Glycol Methyl Ether.
Polystyrene Dialkyl Maleate.*
Propane.
Propyl Acetate (iso-, n-).
Propyl Alcohol (iso-, n-).
Propyl Benzene.*
Propylene.
Propylene Butylene Polymer.
Propylene Glycol.
Propylene Glycol Monethyl Ether.*
Propylene Glycol Monomethyl Ether.*
Propylene Polymer.*
Propylene Tetramer.*
Propylene Trimer.*
Propyl Ether (iso-).
Pseudocumene (1,2,4-Trimethylbenzene).*
Rum.*
Sodium Acetate, Glycol, Water Solutions.*
Sodium Sulfonate.*
Stearic Acid.*
Stearyl Alcohol (Octadecanol).*
Sulfolane.
Tallow.
Tallow Alcohol.*
Tallow Nitrile.*
Tetradecanol.
Tetradecene.
Tetradecyl Benzene.
Tetraethylene Glycol.
Tetrathydronaphthalene.
Tetrapropyl Benzene.*
Toluene.
Triarylphosphate.*
Tricresyl (Tritolyl) Phosphate (containing less than 1% of the ortho isomer).*
Trideance.*
Trideancoic Acid.*
Trideanol.
Tridecene.
Tridecyl Benzene.
Triethyl Benzene.
Triethylene Glycol.
Triethylene Glycol Diethyl Butyrate.
Triethylene Glycol Monomethyl Ether.*
Triethyl Phosphate.*
Triisooctyl Trimellitate.*

Trimethyl Benzene.
2,2,4-Trimethyl Pentanediol-1,3-Diisobutyrate.*
2,2,4-Trimethyl-3-Pentanol-1-Isobutyrate.*
Tripropylene.*
Tripropylene Glycol.
Tripropylene Glycol Monomethyl Ether.*
Trixylonyl Phosphate.*
Turpentine.
Turpentine Substitute (White Spirit).*
Undecanol.
Undecene.
Undecylbenzene.
Vinyl Acetate, Fumarate Copolymer.*
Waxes:
Candelilla.*
Carnauba.
Paraffin.
Petroleum.*
White Spirit.*
White Spirit, Low Aromatic.*
Wine.*
Wool Grease.*
Xylene (meta-,Para-,ortho-).
Zinc Dialkyldithiophosphate.

(46 U.S.C. 391a, 49 CFR 1.46(n)(4))

Dated: May 27, 1980.

Henry Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-10442 Filed 4-4-80; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 78-393]

Television Receiver Performance Standards; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission has received a Report relevant to the subject matter of Docket 78-393, and is re-opening the comment and reply comment period in order to receive public comments on the Report.

DATES: Comments must be received on or before May 16, 1980 and Reply Comments must be received on or before June 13, 1980.

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

FOR FURTHER INFORMATION CONTACT: Larry Middlekamp, Office of Science and Technology (301) 725-1585.

SUPPLEMENTARY INFORMATION:

In the matter of Television Receiver Performance Standards, Gen. Docket No. 78-393, 44 FR 3361, January 17, 1980.

Order Setting Deadline for Filing Comments and Reply Comments

Adopted: March 26, 1980.

Released: March 27, 1980.

1. The Commission has received a report on Television Receiver Noise Figure Study, by J. B. O'Neal, Jr. The report has been entered into the file in this Docket, as it relates closely to the matters being considered therein. The report has also been releaded to the public, and is available for distribution from the FCC's Public Information Division.

2. It is appropriate to reopen the comment period, in order to receive comments of interested parties and the general public. We invite comments and reply comments, to be confined to the aforementioned report.

3. Accordingly, it is ordered, that the deadline for filing comments on the above mentioned report be set for May 16, 1980, and the deadline for reply comments be set for June 13, 1980.

Action is taken pursuant to 47 CFR 0.241(d).

Federal Communications Commission.

S. J. Lukasik,

Chief Scientist.

[FR Doc. 80-10360 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-121; RM-3318]

FM Broadcast Station in San Luis Obispo, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposed the assignment of a third FM assignment to San Luis Obispo, California, in response to a petition filed by the John Brown Schools of California, Inc. The proposed assignment could provide for an additional FM service in a growing community.

DATES: Comments must be filed on or before May 19, 1980, and reply comments on or before June 9, 1980.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (San Luis Obispo, California) (BC Docket No. 80-121, RM-3318).

Adopted: March 13, 1980.

Released: March 31, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition for rule making [1] submitted by John Brown Schools of California, Inc. ("petitioner"), requesting the assignment of FM Channel 251 to San Luis Obispo, California, as that community's third commercial FM assignment. No comments in opposition have been filed.

2. San Luis Obispo (pop. 28,036)[2], seat of San Luis Obispo County (pop. 105,690), is located 322 kilometers (200 miles) north of Los Angeles. San Luis Obispo is presently served by three fulltime AM stations, two commercial FM stations, KZOZ (Channel 227), KUNA (Channel 241) and two noncommercial educational FM stations.

3. Petitioner states that San Luis Obispo is a rapidly growing community with a 1978 estimated population of 35,469. While this population figure does not meet the criteria for assignment of three FM channels, petitioner argues that the projected population of 65,000 in 20 years will meet the criteria. Further, petitioner argues that this allocation will provide a second FM service to approximately 1,186 persons living in a 243 square kilometer (95 square miles) area.

4. The assignment of Channel 251 to San Luis Obispo, California, will cause preclusion to ten communities with population greater than 1,000. Of these, four communities have no FM assignments. The four communities, all in California, with their respective preclusions and populations are: Cambria (1,716) (Channels 249A, 251, 252, 254); Mooro Bay (7,109) (Channels 249A, 251, 252, 254); Arroyo Grande (7,454) (Channels 251, 252); and Guadalupe (3,145) (Channels 251, 252). Mooro Bay and Arroyo Grande, however, have AM stations. Petitioner notes that Channels 261A, 265A, 288A and 296A are generally available throughout the precluded areas.

5. In view of the interest demonstrated in a third FM assignment in this growing community, and the fact that alternate channels are available for assignment to the precluded communities, the Commission feels consideration of this proposal would be in the public interest.

6. Accordingly, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to the listed community:

[1] Public Notice of the petition was given on February 16, 1979, Report No. 1164.

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

City	Channel No.	
	Present	Proposed
San Luis Obispo, California	227, 241	227, 241, 251

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragaph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before May 19, 1980, and reply comments on or before June 9, 1980.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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 goven 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, the 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 late than that, they will not be considered in connection with 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. 80-10384 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-118; RM-3391]

FM Broadcast Stations in Saco and Scarborough, Maine; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of Channel 240A to Saco, Maine, as a first local service in response to a petition filed by Harry B. Bailey, Jr., and Remi S. Rioux, and the reassignment of a Class A channel from Saco to Scarborough, Maine, to reflect its use there.

DATES: Comments must be filed on or before May 19, 1980, and reply comments on or before June 9, 1980.

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

FOR FURTHER INFORMATION CONTACT: Molly Pauker, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Saco and Scarborough, Maine) (BC Docket No. 80-118, RM-3391).

Adopted: March 13, 1980

Released: April 2, 1980

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:* (a) A petition for rule making [1] was filed by Harry B. Bailey, Jr., and Remi S. Rioux ("petitioners"), proposing the assignment of FM Channel 240A to Saco, Maine, as its first FM assignment. WPNO, Inc., licensee of WPNO(AM), Auburn, Maine, has suggested that the Commission consolidate its petition for rule making (RM-3561) requesting, *inter alia,* assignment of Class B Channel 238 to Lewiston, Maine, with the instant petition because the requests will cause preclusion in the same area. Petitioners have opposed consolidation on the grounds that there is no mutual exclusivity, there are no conflicting claims, the issues and applicants are different and consolidation might delay expedited processing of their petition. We have not consolidated the Lewiston proposal herein because the Saco petition seeks the first assignment of a Class A channel and preclusion is not an issue. No other comments have been received.

(b) The proposed channel can be assigned in conformity with the

[1] Public Notice of the petition was given on July 11, 1979, Report No. 1183.

minimum distance separation requirements.

(c) Petitioners state they will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Saco, in eastern York County, on the Saco River, is located 26 kilometers (16 miles) southwest of Portland, Maine.

(b) *Population:* Saco—11,678 [2]; York County—132,300.

(c) *Local Aural Broadcast Service:* None.

(d) *Economic Considerations:* Petitioners state that Saco has the second largest growth rate in Maine, which they believe is particularly significant since numerous Maine cities are experiencing population declines. They further state that retail trade and industrial manufacturing are growing in Saco. Petitioners have submitted information regarding Saco which is sufficient to warrant consideration of a first local aural broadcast service. Petitioners also state that they intend to provide service to a large French speaking population comprising 28.5% of Saco. In addition, we have proposed to amend the Table to reflect the use of Channel 292A (Station WJBQ–FM) at Scarborough, Maine.

3. Canadian concurrence on the assignment will be required.

4. Accordingly, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Rules, with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
Saco, Maine	292A	240A
Scarborough, Maine	.....	292A

5. Interested parties may file comments on or before May 19, 1980, and reply comments on or before June 9, 1980.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. For further information concerning this proceeding, contact Molly Pauker, 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.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advance 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. 80–10382 Filed 4–4–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–123; RM–3460]

FM Broadcast Station in Hagerstown, Md.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a second commercial television channel to Hagerstown, Maryland. Petitioner, James Resh, states the proposed assignment would provide for a station which could render a first independent television programming service to Hagerstown.

DATES: Comments must be filed on or before May 19, 1980, and reply comments must be filed on or before June 9, 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 19, 1980.

Released: March 31, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Station. (Hagerstown, Maryland), BC Docket No. 80–123, RM–3460.

1. Before the Commission is a petition for rule making (Public Notice No. 1190, issued August 27, 1979), submitted by James Resh ("petitioner"). The petition seeks amendment of 73.606(b) of the Commission's rules, the Television Table of Assignments, by assigning UHF television Channel 68 to Hagerstown, Maryland, as that community's second commercial television assignment. Comments were filed by the Association of Maximum Service Telecasters ("MST"). Oppositions were filed by Henson Aviation, Inc. ("Henson"), licensee of Station WHAG-TV, Hagerstown, Maryland, and Shenandoah Valley Educational Television Corporation ("Shenandoah"), licensee of noncommercial educational television Station WVPT, Staunton, Virginia. Reply comments were filed by the Maryland Center for Public Broadcasting ("Center") and by petitioner.

2. Hagerstown (pop. 35,862)[1], seat of Washington County (pop. 103,829), is located in north central Maryland, approximately 100 kilometers (60 miles) west of Baltimore. Hagerstown is currently assigned Channel 25 (WHAG-TV) and Channel *31 (WWPB) which is reserved for non-commercial educational use.

3. In support of his proposal, petitioner asserts that there is a need for additional television service. He notes that agriculture has played an important part in the area's economy and that commercial and industrial enterprises have grown in significance and size over the past decade. He claims that the city's population has grown from 35,862 in 1970, to a 1978 estimated metropolitan population of 75,270, which is expected to increase to 80,400 by 1980.[2] Petitioner contends that there is a lack of adequate local television service to Hagerstown, and he contends there is a need for an additional channel based on Hagerstown's size, significance in the area and other public interest factors. He asserts that the proposed channel could provide viewers with a choice of local commercial television broadcast signals from a new, independent and community oriented programmer.

4. MST[3] states it does not oppose the proposed assignment to Hagerstown provided the site chosen meets the separation requirements. A site 3.2 miles northwest of Hagerstown would meet the requirements to all existing stations and assignments, except for Channel 68 proposed for assignment to Seaford, Delaware, in the New Jersey UHF rule making proceeding (BC Docket 79–269). If Channel 68 is to be assigned to both Seaford and Hagerstown, a total of 22 miles in site restrictions will be necessary. A site restriction of 10 miles east of the proposed Seaford assignment would allow the proposed Hagerstown channel to be used in the area of the existing Hagerstown Channel 25 and *31 stations, about 13 miles west of Hagerstown.

5. Shenandoah's opposition was based on a proposed substitution of Channel *61 for Channel *42 at Front Royal, Virginia (BC Docket 79–52) which would have created an additional short spacing. However, on September 27, 1979, the Commission declined to substitute Channel *61 for *42 at Front Royal, Virginia, in the proceeding.

6. Henson contends that petitioner has failed to demonstrate that the Hagerstown area can support a second commercial television station. It claims that Hagerstown is served by extensive cable television systems throughout the market, plus numerous independent stations from Washington, Baltimore, and elsewhere. Because of these television signals, Henson asserts, the proposed station in Hagerstown would be faced with significant competition for audience, in addition to severely diluting the very limited advertising pool upon which Henson's station (WHAG-TV) now depends. It contends that petitioner presented no analysis of the extent of preclusion or the availability of other channels to communities located in the preclusion area.

7. Petitioner, in response to the Center and MST comments, claims that sufficient site flexibility exists so that the proposed assignment of Channel 68 to Hagerstown would conform with the minimum separaton requirements and minimum field strength intensity over the community of license. In response to Henson's comments, petitioner asserts that cable service is not a substitute for off-the-air television service. He contends that Henson's objections relate to the ability of the market to support a second commercial television broadcast service, and as such, should not be raised at the rule making stage but at the time an application is filed.

8. We agree with petitioner that Henson's comments are directed to the effects of competition on its station (WHAG-TV, Channel 25). No showing has been made that the public would suffer an adverse impact from the new competition. The applicable site restrictions will be coordinated with the proceeding involving Seaford, Delaware (BC Docket 79–269).

9. Based on these facts, the Commission believes that it is appropriate to consider whether there is a need for a second commercial television service in Hagerstown. Therefore, the Commission finds it would be in the public interest to consider amending § 73.606(b) of the Commission's rules, the Television Table of Assignments, for that community as follows:

City	Channel No.	
	Present	Proposed
Hagerstown, Maryland	25-, *31	25-, *31, 68+

10. Authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements is 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 19, 1980, and reply comments on or before June 9, 1980.

12. 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.

[1] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

[2] Petitioner does not indicate the source of this information.

[3] In reply comments, Center supported MST, stating that it, too, did not oppose the proposed assignment to Hagerstown provided a site was chosen which would meet the separation requirements to Station WMPB-TV (Channel *67), Baltimore, Maryland.

Appendix

[BC Docket No. 80–123 RM–3460]

1. Pursuant to authority found 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, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–10385 Filed 4–4–80; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80–120; RM–3311]

FM Broadcast Station in Defiance, Ohio; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of Class B FM Channel 251 to Defiance, Ohio, as that community's first FM assignment, in response to a petition filed by Defiance Broadcasting Company. It also proposes the reassignment of Channel 240A from Defiance to Archbold, Ohio, to reflect its current usage.

DATES: Comments must be filed on or before May 19, 1980, and reply comments on or before June 9, 1980.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Defiance, Ohio) (BC Docket No. 80–120, RM–3311).

Adopted: March 18, 1980
Released: March 31, 1980

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition for rule making [1] filed by Defiance Broadcasting Company ("petitioner") proposing the assignment of Class B FM Channel 251 to Defiance, Ohio, as a first FM assignment. No other comments were received.

2. Defiance (pop. 15,800 [2]), seat of Defiance County (pop. 36,949), is located in the northwest corner of Ohio, approximately 85 kilometers (53 miles) southeast of Toledo, Ohio. Defiance is served locally by fulltime AM Station WONW.

3. Since Channel 240A, presently assigned to Defiance, is being used in Archbold, Ohio, by Station WHFD, pursuant to Section 73.203(b) of the Commission's Rules,[3] we shall propose to modify the FM Table of Assignments to reflect the use of Channel 240A in Archbold.

4. The Assignment of Channel 251 to Defiance, Ohio, would cause preclusion to one community with a population greater than 1,000. The community, Morenci, Michigan (pop. 2,132), has no current AM stations or FM assignments. Petitioner states that there are no channels available for assignment to Morenci. However, Morenci is said to receive AM and FM service from nearby Adrian, Michigan.

5. Petitioner has submitted a community profile which adequately demonstrates the need for a first FM channel assignment. Petitioner indicates that there are no Class A channels available for assignment to Defiance. Further in support of a Class B assignment we are told that Defiance is located in a rural area far removed from any larger communities.

6. In order to meet the spacing requirements, the successful applicant for Channel 251 will have to locate its transmitter facilities approximately 11 kilometers (7 miles) west of Defiance.

7. In view of the public benefit to be derived from providing Defiance, Ohio, with its first local FM service and the absence of significant preclusion impact, the Commission feels consideration of the below mentioned proposal will be in the public interest.

8. Accordingly, It Is Proposed To Amend, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as follows, for the below named communities:

City	Channel No.	
	Present	Proposed
Archbold, Ohio	.....	240A
Defiance, Ohio	240A	251

9. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before May 19, 1980, and reply comments on or before June 9, 1980.

11. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should

[1] Public Notice of the petition was given on January 30, 1979, Report No. 1162.

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

[3] Archbold is 29 kilometers (18 miles) north of Defiance. Section 73.203(b) previously permitted the use of a channel within 25 miles of the community of assignment before the provision was amended in 1968, to permit such use within 10 miles for Class A assignments.

note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assigment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-10383 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-122; RM-3320]

FM Broadcast Station In Ashland, Oreg.; Proposed Changes In Table of Assignments and Order To Show Cause

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making and Order to Show Cause.

SUMMARY: This action proposes to assign two Class C FM channel assignments to Ashland, Oregon, in response to a petition filed by A-Train, Inc. The present Class A licensee at Ashland is proposed to have its license modified to specify one of the Class C channels. The assignments could provide significant first and second FM and aural services and would avoid intermixture of classes of channels at Ashland.

DATES: Comments must be filed on or before May 19, 1980, and reply comments must be filed on or before June 9, 1980.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: March 13, 1980.

Released: March 31, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Ashland, Oregon), BC Docket No. 80-122, RM-3320.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by A-Train Radio, Inc. ("petitioner"), seeking the assignment of Class C FM Channel 286 to Ashland, Oregon. An opposition to the proposal was received from Rogue Radio Corp. ("Rouge"), licensee of Stations KCMX(AM) and KKIC(FM), Ashland, Oregon, to which petitioner responded.

2. *Demographic Data.*—(a) *Location.* Ashland, in Jackson County, is located near the Oregon-California border, approximately 360 kilometers (225 miles) south of Portland, Oregon.

(b) *Population.* Ashland—13,600 [2]; Jackson County—94,533.

(c) *Present Aural Service.* Ashland is served locally by fulltime AM Station KCMX, daytime-only AM Station KDOV, FM Station KKIC (Channel 269A) and noncommercial educational FM Station KSOR (Channel 211).

3. *Economic Data.* Petitioner states that the principal industry in Ashland is tourism which is attributed to the community's abundant natural resources. It noted that Ashland has other industries which include lumber, steel fabrication, and wood products. Oregon's Department of Economic Development estimates Ashland's population for the year 1978 to be 14,885, as compared to 13,600 in 1970, according to petitioner. In support of its proposal, petitioner submitted information with respect to recreation facilities, transportation, form of government and educational facilities, in an effort to demonstrate the need for another commercial FM assignment at Ashland.

4. *Proposed Service.* A revised *Roanoke Rapids/Anamosa* showing submitted by petitioner indicates that the proposed channel would provide a first FM service to 1,236 persons in a 1,093 square kilometer (427 square miles) area, and second FM and nighttime aural services to 5,081 persons in a 3,107 square kilometer (1,214 square miles) area. Channel 286 can be

[1] Public Notice of the petition was given on February 18, 1979, Report No. 1164.

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

assigned to Ashland in conformity with the minimum distance separation requirements.

5. *Preclusion Considerations.* The assignment of Channel 286 to Ashland would cause preclusion to twenty-one communities with populations greater than 1,000. Of these, eight have no FM assignments; [3] one of the eight (Fortuna) has an AM station. Petitioner indicates that alternate channels are available for assignment to Dunsmuir, and Fortuna, California, and Central Point, Oregon. In comments it should state whether alternate channels are available for assignment to Jacksonville, Oregon, and Blue Lake, Ferndale, McCloud and Weaverville, California.

6. Petitioner asserts that the proposed Class C channel would provide Ashland with its second local FM service and would render service as a multi-county regional facility in the Ashland-Medford-Grant's Pass market. It points out that Medford lies approximately 19 kilometers (12 miles) north of Ashland and Grant's Pass is about 56 kilometers (35 miles) northwest of Ashland. It adds that the Rand McNally 1978 Commercial Atlas and Marketing Guide classifies the area as a single Basic Trading Area with a population of 168,700 as of January 1978. It notes that Arbitron has classified this tri-city areas as the Area of Dominant Influence of the Medford Television Market. Petitioner contends that these facts demonstrate that Ashland and its surrounding area are of sufficient size, population and economic strength to warrant and support a Class C assignment. Petitioner maintains that the proposed channel would present no intermixture problem in its market area since a Class A and Class C channel are assigned to Medford and two Class C assignments have been made to Grant's Pass.[4]

7. In opposition, Rogue, licensee of Ashland's Class A station, argues that petitioner's proposal violates the Commission's well-established policy against intermixture of classes of FM channels in the same community. Citing several Commission cases,[5] Rogue points out that while exceptions to this policy have been approved by the Commission, it has been premised on the paucity of channels of the same class available to provide service to the area. As to the Commission's willingness to add the Class C channel to a market already intermixed, Rogue maintains that Ashland and Medford are separate and distinct markets and the fact that Class C channels have been assigned to Medford and Grant's Pass is irrelevant to consideration of the instant proposal. Rogue takes exception to the Ashland-Medford-Grant's Pass theory contending that the Commission does not recognize this as a market despite the relative proximity of Ashland and Medford, and adds that Grant's Pass is too remote (35 miles from Ashland) to be considered as part of the market. It contends that petitioner's sole support for classifying Ashland-Medford-Grant's Pass as a market comprising a single Basic Trading Area is Rand McNally, the publisher of a commercial atlas and marketing guide. Rogue contends that the Commission's policy against intermixture is strictly applied to the community in which the assignment is sought. Rogue claims an exception is not warranted because here there are numerous Class A channels available for assignment to Ashland. Rogue also questions the figures submitted by petitioner regarding first and second aural service as to population and area, alleging the showing to be incomplete and inadequate. In the event the Commission nevertheless determines that a Class C channel is appropriate for assignment to Ashland, it requests that we propose a modification of its station license to specify a different Class C channel in accordance with established policy, citing *Gillette, Wyo.*, Dkt. 21119, 42 FR 47557, 41 RR 2d 725 (1977).

8. In response, petitioner argues that a Class C assignment is justified at Ashland since (1) it would bring the community its first competitive FM outlet; (2) it would provide first and second aural service to significant areas and populations; (3) it would not result in the preclusion of an assignment to any community of significant size which is presently without service; and (4) the market is already intermixed. Petitioner asserts that its proposal is well-suited as an exception to the policy to avoid intermixture based on these facts. It points out that not only has Rand McNally recognized Ashland-Medford-Grant's Pass as tri-city market, but Arbitron also recognizes it as a single classification. Petitioner states that Rogue is in error in claiming that intermixture is to be viewed exclusively on a community-only basis, citing *Fairmont, West Virginia*, 40 F.C.C. 1021 (1965) where the Commission substituted a Class C for a Class A assignment as Fairmont's second FM assignment, in light of the pre-existing intermixture at nearby Clarksburg and Morgantown. Petitioner claims the same situation pertains here, since nearby Medford and Grant's Pass both have Class C assignments. Petitioner asserts that Rogue's attack on the *Roanoke Rapids* showing submitted by petitioner is without merit since its revised engineering study submitted in a supplement to its petition complies fully with the requirements of the proposal. Petitioner states that should the Commission find it in the public interest, two Class C channels appear to be available for assignment to Ashland, and Rogue would apparently support such a proposal, with concomitant order to show cause why its facilities should not be upgraded.

9. Since the proposed channel could provide first and second FM and second nighttime aural service to a significant area and substantial population, and Ashland is of sufficient size to warrant a Class C assignment, these factors in themselves justify our proposing herein to assign Channel 286 to Ashland. However, to avoid intermixture and since both petitioner and Rogue have stated that if the Commission decided to make this proposal then it should also consider assigning a second Class C channel to Ashland, we shall propose an additional Class C assignment and propose to modify Rogue's license to specify operation on a Class C channel. Since this would follow the Commission's policy of avoiding intermixture of classes of channels [6], and would provide for a competitive balance, we are proposing two Class C channels at Ashland. In doing so, the second Class C assignment could provide a second FM service to part of the area now unserved. Petitioner is requested to make clear its intent, should it become the ultimate licensee of one of the Class C channels, if assigned, to reimburse Rogue Radio Corp., for reasonable costs which would result from the change of frequencies. It would not be responsible for paying for the increase in facilities.

10. In light of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as it pertains to the community listed below:

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[3] *Oregon:* Jacksonville (1,611) (Channels 285A, 286, 288); Central Point (4,004) (Channels 285A, 286, 288); *California:* Blue Lake (1,112) (Channels 286); Ferndale (1,351) (Channel 286); McCloud (1,643) (Channels 286, 287); Dunsmuir (2,214) (Channels 286, 287); Weaverville (1,489) (Channel 286); and Fortuna (4,203) (Channel 286).

[4] In support, petitioner cities *Richland, Washington*, 41 FR 47050, 38 RR 2d 1070 (1976), and *Palm Springs, Cal.*, Dkt. 21174, 42 FR 39982, 41 RR 2d 301 (1977).

[5] *Cadillac and Traverse City, Mich.*, Dkt. 15542, 29 FR 16988, 3 RR 2d 1643 (1964); *West Palm Beach, Fla.*, Dkt. 18794, 35 FR 7731, 19 RR 2d 1519 (1970).

[6] See *Mitchell, S. Dak.*, 62 F.C.C. 2d 70 (1976); *Gillette, Wyo.*, Dkt. 21119, 42 FR 47557 (1977); and *Iron Mountain, Mich.*, Dkt. 78-133, 44 FR 67680 (1979).

City	Channel No.	
	Present	Proposed
Ashland, Oregon	269A	270, 286

11. It is ordered that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licensee of Station KKIC (FM, Ashland, Oregon, shall show cause why its license should not be modified to specify operation on Channel 270 if the Commission determines that the public interest would best be served by adopting the proposed assignment.

12. Pursuant to Section 1.87 of the Commission's Rules and Regulations, the licensee of Station KKIC (FM), Ashland, Oregon, may no later than May 19, 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, KKIC (FM) may, not later than May 19, 1980, file a written statement showing with particularity why its license should not be modified as proposed in this *Order* modifying the license as provided in the *Order to Show Cause*. In this case, the Commission may call on KKIC (FM) to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, KKIC (FM) will be deemed to consent to modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

13. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

14. Interested parties may file comments on or before May 19, 1980, and reply comments on or before June 9, 1980.

15. It is further ordered, That the Secretary of the Commission shall send a copy of this *Order* by certified mail, return receipt requested, to Rogue Radio Corporation, Box 128, Ashland, Oregon 97520, the party to whom the *Order to Show Cause* is directed.

16. 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

[BC Docket No. 80-122 RM-3320]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-10415 Filed 4-4-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 68
Monday, April 7, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Business and Industrial Loans; Insured Loan Interest Rates

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given by the Farmers Home Administration that the current rate of interest for insured business and industrial loans, established pursuant to 7 CFR 1980.423(b) is as follows:

a. Insured loans to private entrepreneurs will be at the rate of thirteen and one-half percent (13½%). This rate will remain in effect until a change is published in the **Federal Register.**

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. LaVerne A. Isenberg, Room 4118, Farmers Home Administration, USDA, Washington, DC 20250. Phone: 202–447–4871.

Dated: March 24, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-9944 Filed 4-4-80; 8:45 am]

BILLING CODE 3410-07-M

Fiscal Year 1980 Allocations of EE Loan Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration is publishing a notice concerning the allocation by States of Economic Emergency (EE) loan funds for the balance of fiscal year 1980. This action is taken as a result of a Pub. L.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Lee, Assistant Administrator, Farmer Programs, Room 5313, S. Agriculture Building, 14th and Independence SW, Washington, D.C. 20250. Phone: (202) 447–4597.

SUPPLEMENTARY INFORMATION: On November 27, 1979 (44 FR 67682) the Farmers Home Administration published its "Administrative Notice" regarding "Fiscal Year 1980 Allocation" which provided that no State allocation of EE loan funds would be made and that obligations would be handled directly by the Finance Office. We now find it is necessary to allocate EE loan funds to States for the balance of the fiscal year. Therefore, as a part of its ongoing attempt to keep the public informed of its actions the Farmers Home Administration is providing notice of the amount of funds the Agency has available for EE loans for the balance of this fiscal year in the following Administrative Notice No. 405 (1940) dated March 31, 1980.

Dated: April 1, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

FmHA AN No. 405 (1940)
March 31, 1980

SUBJEC: Allocation of EE Loan Funds—Fiscal Year 1980.

TO: All State Directors, FmHA, Director, Finance Office.

On March 30, 1980, President Carter signed S. 2269, "An Act to Amend the Emergency Agricultural Credit Adjustment Act of 1978". This Act extends the Economic Emergency Loan program until September 30, 1981, and increases the authorization for principal balances outstanding by $2 billion. We are holding $1 billion in reserve for use during fiscal year 1981 and are making an allocation of $1 billion to States in accordance with the following schedule for the balance of fiscal year 1980. However, we will have some from principal collections that we intend to use for extreme hardship cases if you frugally use your allocated funds and find they are inadequate.

Economic Emergency Funds (000) Dollars

State	Allocation
Alabama	$7,469
Alaska	330
Arizona	5,413
Arkansas	37,535
California	12,552
Colorado	18,103
Connecticut	1,602
Delaware	1,910
Florida	14,789
Georgia	23,447
Hawaii	664

Economic Emergency Funds (000) Dollars—Continued

State	Allocation
Idaho	33,017
Illinois	35,727
Indiana	37,085
Iowa	41,766
Kansas	26,371
Kentucky	27,685
Louisiana	25,075
Maine	6,204
Maryland	7,443
Massachusetts	2,600
Michigan	24,508
Minnesota	40,269
Mississippi	15,200
Missouri	41,900
Montana	13,564
Nebraska	44,726
Nevada	2,356
New Hampshire	379
New Jersey	1,096
New Mexico	8,023
New York	34,860
North Carolina	41,768
North Dakota	37,665
Ohio	13,990
Oklahoma	40,663
Oregon	9,894
Pennsylvania	17,214
Rhode Island	158
South Carolina	9,632
South Dakota	44,137
Tennessee	39,951
Texas	31,859
Utah	4,583
Vermont	3,477
Virginia	19,391
Washington	25,117
West Virginia	4,585
Wisconsin	48,055
Wyoming	5,942
Puerto Rico	8,311
Virgin Island	0

Expiration date: September 30, 1980.

Filing instruction: Preceding FmHA Instruction 1941–A.

State Directors should give preference to family farmers in utilization of these funds and are expected to maintain control of the funds to see that they do not exceed their State's allocation.

When borrowers are indebted for EM loans, their additional credit needs should be met to the extent possible with subsequent EM loans instead of with EE loans. Also, in accordance with § 1945.61 (a)(4) of FmHA Instruction 1945–B, (Subpart B of Part 1945 of Chapter XVIII, Title 7, "Code of Federal Regulations") *paid-up* EM loan borrowers can obtain EM loans for annual production purposes provided they are made within the authorized periods set forth in § 1945.66 (b) (1) (i) and (ii) of FmHA Instruction 1945–B (Subpart B of Part 1945). This paid-up EM loan authority should be used for annual production purposes when applicants qualify instead of making EE loans for such purposes.

We will consider pooling unobligated funds on September 1, 1980. The unobligated funds will be used by the National Office to fund

hardship cases until the end of the fiscal year.

Gordon Cavanaugh,

Administrator.

[FR Doc. 80-10314 Filed 4-4-80; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

Economic Development Administration

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

Petitions have been accepted for filing from the following firms: (1) Colorguard Corporation, One Johnson Drive, Raritan, New Jersey 08869, a producer of chain link fence; pipe and tubing (accepted March 21, 1980); (2) Corcol Energy, Inc., 3000 Marcus Avenue, Lake Success, New York 11040, a producer of coal (accepted March 21, 1980); (3) Wall Tube and Metal Products Company, P.O. Box 330, Newport, Tennessee 37821, a producer of metal automotive parts, tubing and outdoor furniture (accepted March 21, 1980); (4) Montclair Jewelry Manufacturing Corporation, 243 East Shore Road, Manhasset, New York 11030, a producer of jewelry (accepted March 21, 1980); (5) John C. Kohaut Inc., 15 Meeker Street, West Orange, New Jersey 07052, a producer of handles, nightsticks, and other wood turnings (accepted March 21, 1980); (6) Toll-Gate Garment Corporation, Route 3, Box 1, Hamilton, Alabama 35570, a producer of men's, womens's and boys' shirts, blouses and caps (accepted March 21, 1980); (7) Steffi Fashions, Inc., 500 Seventh Avenue, New York, New York, 10018, a producer of women's coats and jackets (accepted March 24, 1980); (8) Moss Sportswear Company, Inc., 410 West Lombard Street, Baltimore, Maryland 21201, a producer of men's shirts (accepted March 24, 1980); (9) Fort Plain Packing Company, Inc., P.O. Box 390, Fort Plain, New York 13339, a processor of meat (accepted March 25, 1980); (10) Martin Greenfield Clothiers Limited, 239 Varet Street, Brooklyn, New York 11206, a producer of men's suits, coats and slacks (accepted March 25, 1980); (11) Hi-Craft Clothing Company, 3111 West Allegheny Avenue, Philadelphia, Pennsylvania 19132, a producer of women's jackets, slacks, skirts and blouses (accepted March 25, 1980); (12) Newton Cedar Products, Inc., P.O. Box 1519, Forks, Washington 98331, a producer of cedar shakes, shingles, and shims (accepted March 25, 1980); (13) Donald MacMillan & Son, Inc., 347 Hazel Street, Macon, Georgia 31201, a producer of tire retreading presses and other equipment (accepted March 26, 1980); (14) Johnston, Incorporated, 28 Green Street, Somersworth, New Hampshire 03878, a producer of cheese and yogurt (accepted March 27, 1980); (15) L. E. Smith Glass Company, Inc., P.O. Box 149, Mt. Pleasant, Pennsylvania 15666, a producer of glass giftware (accepted March 27, 1980); (16) Realt Images, Inc., 161 North Morgan, Shelbyville, Illinois 62565, a producer of acrylic key chain and sunglass holders; photo frames (accepted March 31, 1980); (17) Barclay Knitwear Company, Inc., Edmond Road, Newton, Connecticut 06470, a producer of men's and boys' sweaters, shirts, jeans and jackets (accepted March 31, 1980); (18) Schachter and Salles, Inc., 1239 Broadway, New York, New York 10001, a producer of men's and boys' coats and jackets (accepted March 31, 1980); (19) Leather-Mates, Inc., 266 West 37th Street, New York, New York 10018, a producer of men's leather coats, jackets and pants (accepted March 31, 1980); and (20) Beelner & Thomas Furniture Companies, Inc., 475 E. Duarte Road, Monrovia, California 91016, a producer of desks and other office furniture (accepted March 31, 1980).

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

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

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

Charles L. Smith,

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

[FR Doc. 80-10312 Filed 4-4-80; 8:45 am]

BILLING CODE 3510-24-M

Maritime Administration

Presidential Oil Pollution Insurance Study; Final Extension of Time To File Comments

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Final Extension of Time to File Comments.

SUMMARY: On January 21, 1980, the Maritime Administration published in the **Federal Register** a Notice of Request for Comments on the Presidential Oil Pollution Insurance Study. On February 7, 1980 a second Notice was published extending the closing date for comments to March 31, 1980. Several interested persons have requested a further extension. Notice is hereby given that the closing date for comments on the Study is extended to April 15, 1980. No further requests for extensions will be granted.

FOR FURTHER INFORMATIOIN CONTACT: Robert J. Patton, Jr. (202) 377-2188, Paul C. Johnson (202) 377-4091, or Gary Reger (202) 377-3952.

Dated: April 1, 1980.

Robert J. Patton, Jr.,

Secretary, Maritime Subsidy Board.

[FR Doc. 80-10285 Filed 4-4-80; 8:45 am]

BILLING CODE 3510-15-M

COMMUNITY SERVICES ADMINISTRATION

Implementation of the Federal Employees Part-Time Career Employment Act of 1978

AGENCY: Community Services Administration (CSA).

ACTION: Proposed implementation of the Federal Employees Part-Time Career Employment Act of 1978.

SUMMARY:

I. General Provisions

A. Purpose—These internal regulations are to establish a continuing program to provide career and career-conditional part-time employment opportunities within the Community Services Administration.

B. Delegation—The regulations may be supplemented ar amended, as required, from time-to-time by the Director of Personnel.

C. Policy—It is the policy of CSA to provide part-time career employment opportunities in positions through GS-15, or equivalent subject to Agency resources and mission requirements. Selections of part-time employees shall be made without regard to religion, race, color, national origin, marital status,

sex, age, non-disqualifying physical handicap.

D. Part-Time Employment—Employment of at least one year, for 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day.

II. Exceptions

1. These regulations do not apply to positions in the Senior Executive Service or positions at GS–16 (or equivalent) and above, or to positions where an existing collective bargaining agreement establishes the number of hours of employment per week; nor do they apply to part-time employees who were working on a temporary/permanent part-time basis on April 8, 1979.

2. In no case will part-time employees under this program be allowed to work 33 to 39 hours per week except for very limited periods due to heavy workload.

3. Employment of part-time staff for less than 16 hours per week may be permitted when absolutely necessary to carry out CSA's mission.

III. Program Implementation

CSA will establish part-time employment goals and time tables, coordinating with budget and ceiling control.

The Agency Part-Time Employment Coordinator is assigned the following responsibilities:

(a) Reviewing goals and time tables for part-time employment.

(b) Obtaining regular input from Agency Equal Opportunity Program staff in order to assure that specific needs for providing employment opportunities for minorities and women are addressed and to assess the effect of the Agency Part-Time Employment Program on employment patterns and occupational concentration of minorities and women.

(c) Consulting on the Agency Part-Time Employment Program with interested parties in special emphasis areas (e.g., employment of the handicapped, employment of veterans, and upward mobility) and with representatives of employee organizations, etc.

(d) Responding to Agency requests for advice and assistance on part-time employment.

(e) Maintaining Agency liaison with groups that indicate interest in promoting part-time employment opportunities.

(f) Preparing consolidated Agency reports on part-time employment for transmittal to the Office of Personnel Management; and

(g) Overall monitoring of progress in expanding part-time employment opportunities within the Agency.

The Agency shall set annual nationwide goals for establishing and converting positions for part-time employment, and a time table setting forth interim and final deadlines for achieving such goals. Goals for each fiscal year (beginning with FY 1980) must be established and reported to the Agency coordinator by the end of the preceding fiscal year.

In establishing goals and time tables, such factors as the following must be considered:

(a) Agency mission occupational mix;

(b) Workload fluctuations;

(c) Size of work force, turnover rate, or employment trends;

(d) Affirmative actions;

(e) Past experience with part-time employment (to include analysis of current part-time employment utilization);

(f) Patterns of overtime utilization;

(g) Potential for improving service to the public; and

(h) Personnel ceiling allowances and fiscal constraints.

The Part-Time Career Employment Program will be subject to continuing review and evaluation as a part of the regular personnel management evaluations conducted by the Agency and the Office of Personnel Management.

Limitations—The Agency will develop procedures to permit employees to request and receive consideration to change from full-time employee to part-time schedule, however, no full-time employee shall be required to accept part-time employment.

Part-time employees under this program are prohibited from converting to a full-time schedule until they complete at least one year of part-time service.

Additionally, these appointments do not convey transfer or reinstatement eligibility (except to other career/career-conditional part-time positions) until the employee has completed at least one year of service in a part-time status.

IV. Publicizing Vacancies

Part-time vacancies will be published in accordance with merit staffing requirements. When applicants from the outside are needed, published vacancy announcements may be distributed to recruitment sources such as Job Information Center, State Employment Offices, Federal applicable organizations.

William W. Allison,

Acting Director.

[FR Doc. 80-10478 Filed 4-4-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Keystone Fuel Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Keystone Fuel Oil Company, 25 South Heald Street, Wilmington, Delaware 19801. This Proposed Remedial Order charges keystone with pricing violations in the amount of $2,950,026.00, connected with the sale of fuel oil and kerosene during the period from August 19, 1973 through June 30, 1975.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained by writing, Department of Energy, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pa. 19102. On or before April 22, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania on the 31st of March, 1980.

Edward F. Momorella,

Acting District Manager, Northeast District Enforcement.

[FR Doc. 80-10372 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-296]

Appalachian Power Co.; Filing

March 31, 1980.

The filing Company submits the following:

Take notice that Appalachian Power Company (APCo), on March 24, 1980, tendered for filing a power sales agreement executed with the City of Danville, Virginia dated February 1, 1980. This agreement is intended to supersede the existing service agreement between APCo and the City of Danville, designated by the Commission as Appalachian Power Company FERC Rate Schedule No. 75. The new agreement provides for an increase in contract capacity from 82,000 Kw to 125,000 Kw effective June 1, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance

with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10332 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-294]

Arizona Public Service Co.; Proposed Tariff Change

March 31, 1980.

The filing Company submits the following:

Take notice that on March 24, 1980, Arizona Public Service Company tendered for filing proposed Supplement to APS–FPC Rate Schedule No. 33 for sale of non-firm energy to United States-Western Area Power Administration.

The parties request waiver under the provisions of Section 35.11 so that this Supplement may become effective as of January 24, 1980.

A copy of the filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10333 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP80-93, etc.]

Border Gas, Inc.; Order

March 28, 1980.

On March 21, 1980, Border Gas, Inc. (Border), filed in Docket No. CP80-93, *et al.*, a petition to amend authorizations granted to it by the Commission on December 21, 1979 (pursuant to Sections 3 and 7 of the Natural Gas Act) and by the Economic Regulatory Administration (ERA) on December 29, 1979 [1] (pursuant to Section 3 of the Natural Gas Act). This petition was followed by a motion for emergency action filed on March 26, 1980.[2]

The project, as authorized, provided for the implementation from Mexico of approximately 300,000 Mcf per day of natural gas purchased by Border from Petroleos Mexicanos (Pemex), and the resale by Border at the international boundary to six interstate pipelines who jointly own Border in proportion to the percentage of their entitlements to the gas.[3] The price was determined to be $3.625 per MMBtu, subject to an escalator, as provided for by the joint announcement of an agreement between the Governments of the United States and Mexico of September 21, 1979, as more fully explained in a contract between Border and Pemex executed on October 19, 1979 and filed with the original application.

The proposed amendment would permit Pemex to receive a price equal to or greater than the price charged U.S. customers by Canadian companies for natural gas, or the existing approved price with its escalator, whichever is greater. Pemex insists upon approval of a price of $4.47 per MMBtu, retroactive to March 1, 1980, due to the interim approval of that price for Canadian imports as authorized in DOE/ERA Opinion and Order No. 14, issued February 16, 1980.

On March 27, 1980, ERA issued DOE/ERA Opinion and Order No. 16 granting interim emergency approval to Border to pay the increased price for natural gas imported from Mexico. The Opinion finds, in part, that:

All that we are approving at this time is a temporary price increase for flowing gas that will put Mexican gas prices on an equal footing with Canadian gas prices for a 50-day period, in order that government-to-government discussions can proceed toward the development of a more permanent arrangement. While we are reluctant to approve any price increase on an emergency basis, we have been charged in applying Section 3 of the Natural Gas Act to take into account the important underlying foreign relations considerations as described in the State Department communication. We are not at this time, however, approving the specific petition filed by Border to amend our previous authorization to allow the higher of the Contract price or the Canadian price, and we are not this time authorizing a price increase retroactive from the date of this decision.

The ERA Order only approves the interim Mexican border price of $4.47 per MMBtu from the Order's date of issuance until May 15, 1980, to correspond to the termination of the interim approval given to the Canadian Border price in DOE/ERA Opinion and Order No. 14.

The ERA Order further establishes procedures to determine whether the proposed pricing mechanism in Border's petition: (1) Should be made a permanent amendment to Border's previous authorizations; (2) Will result in prices that are fair and reasonable, and whether the volumes imported at those prices are needed on a national or regional basis; (3) Should be made retroactive to March 1, 1980, as requested by Pemex.

Pursuant to Department of Energy Delegation Order No. 0204–54, the Administrator of ERA has exclusive jurisdiction to approve the import price, including subsequent increases in that price.[4] The petition to amend, when read in conjunction with DOE/ERA Opinion and Order No. 16, does not present any Section 3 issue under the Commission's express or residual jurisdiction.

Based on the record before us, which does not include any contract amendment, we are not aware of any issues cognizable by us under Section 7

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[1] DOE/ERA Opinion and Order No. 12.

[2] Both the petition and motion were jointly captioned for filing before both the Commission and ERA.

[3] The six pipelines and their proportionate share is as follows: Tennessee Gas Pipeline Company, a Division of Tenneco Inc., 37½%; Texas Eastern Transmission Corporation, 27½%; El Paso Natural Gas Company, 15%; Transcontinental Gas Pipe Line Corporation, 10%; Southern Natural Gas Company, 6⅔%; Florida Gas Transmission Company, 3½%.

[4] Pursuant to Sections 301(b) and 402(a)(1) of the Department of Energy Organization Act (DOE Act), the Secretary of Energy has been vested with exclusive jurisdiction to resolve issues arising under Section 3 of the Natural Gas Act (NGA). The DOE Act (Sections 402(e) and 642), however, also authorizes the Secretary to delegate and assign such functions to the Commission. The Secretary of Energy has issued delegation orders to the Administrator of ERA (Delegation Order No. 0204–54) and the Commission (Delegation Order No. 0204–55), assigning and delegating jurisdiction under Section 3.

The delegation orders vest in the Administrator of ERA exclusive jurisdiction to make the determinations set forth in paragraphs (a)(1) through (a)(4) of Delegation Order No. 0204–54. In the context of imports of natural gas, these determinations encompass security of supply and balance of payments considerations, the import price, consistency with certain DOE regulations, and national need for the gas.

of the Act, nor are we aware of any necessity to amend the order issuing the certificates of public convenience and necessity. Based on the record currently before us, the pass-through of the price increase approved by ERA appears to present a matter solely to be considered under Section 4 of the Act. The Commission agrees in principle that such pass-through should be permitted, effective as of the date of DOE/ERA Opinion and Order No. 16, but we cannot implement that decision until such time as appropriate revised tariff sheets are filed with the Commission. Because the existing contract and tariff does not provide for the instant rate change request and neither a contract amendment nor new tariff sheets have been filed with the Commission, the rates and charges are subject to the filing of an appropriate contract amendment and tariff sheets as required by the Natural Gas Act and the Regulations thereunder.

The Commission finds:

(1) The pass-through of costs associated with the increased price should be approved subject to the filing of appropriate tariff sheets.

(2) Good cause exists for waiver of the notice requirements of Section 4 of the Natural Gas Act and § 154.22 of the Regulations to permit the filing of tariff sheets by Border.

(3) The circumstances surrounding the instant petition prevent the noticing of the requested action prior to the issuance of this order.

The Commission orders:

(A) Rates to be charged herein by Border are subject to the filing of suitable tariff sheets and contract amendment within 30 days of the date of issuance of this order.

(B) In consideration of all of the circumstances of the request in the instant petition, this order is issued prior to the issuance of a notice of the filing of the petition. However, any person desiring to be heard or to make any protest with reference to the instant petition may on or before April 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining further action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a petition to intervene in accordance with the Commission's Rules.

(C) The Secretary shall cause prompt publication of this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-10334 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-495]

Carolina Power and Light Co.; Filing

March 31, 1980.

The filing company submits the following:

Take notice that on March 21, 1980, Carolina Power and Light Company (CPL) tendered for filing a refund report pursuant to Commission Opinion Nos. 19 (issued August 2, 1978) and 19-A (issued February 21, 1979) in the above-styled proceeding.

Copies of this report have been filed with the affected customers, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before April 21, 1980. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10335 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-300]

Commonwealth Edison Co.; Proposed Tariff Change

March 31, 1980.

The filing company submits the following:

Take notice that Commonwealth Edison Company on March 26, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No. 7, an Interconnection Agreement, dated May 1, 1964, between Commonwealth Edison Company and Interstate Power Company.

The proposed change, which the parties have agreed upon, modifies the compensation provision in Service Schedule C.

Copies of the proposed rate schedule changes were served upon the Illinois Commerce Commission, Springfield, Illinois, the Minnesota Public Service Commission, St. Paul, Minnesota the Iowa State Commerce Commission, Des Moines, Iowa and Interstate Power Company, Dubuque, Iowa.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10336 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-295]

Connecticut Valley Electric Co., Inc.; Proposed Tariff Change

March 31, 1980.

The filing Company submits the following:

Take notice that Connecticut Valley Electric Company Inc., on March 24, 1980, tendered for filing proposed changes in its Transmission Service Agreement with the New Hampshire Electric Cooperative, Inc. The proposed changes would decrease revenues from jurisdictional sales and service by $530 based on the 12 month period ending May 1980.

The filing is made to comply with the provisions of the Transmission Agreement (FPC No. 8) which requires that charges shall be modified annually to incorporate the applicable cost data contained in the Company's current FERC Form No. 1.

Copies of the filing were served upon the New Hampshire Electric Cooperative, Inc., and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21,

1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10337 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-16]

Michael Doyle; Extension of Time

March 31, 1980.

Mr. Michael Doyle has requested a 30-day extension of time within which to file a petition for review of the Department of Energy's Decison and Order of February 20, 1980 (Case No. DEO-0231).

Based on the circumstances presented by Mr. Doyle in his request, an extension is granted to and including April 21, 1980, for filing a petition for review.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-10338 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-298]

El Paso Electric Co; Filing

March 31, 1980.

The filing Company submits the following:

Take notice that on March 24, 1980, El Paso Electric Company (El Paso) tendered for filing a Service Agreement, as an initial rate schedule to its FERC Electric Tariff, for the following additional customer:

Purchaser and Date of Execution

Southern California Edison Company, 3/10/80

El Paso has requested waiver of the notice requirements of the Federal Power Act and the Commission's Regulations to allow this schedule to become effective March 24, 1980.

El Paso also states that copies of this filing have been served upon Southern California Edison Company, the Public Utilities Commission of Texas and the New Mexico Public Utilities Commission.

Any Person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,D.C. 20426, in accordance with §§ 1.5 an 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10339 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-299]

Florida Power & Light Co.; Filing

March 31, 1980.

The filing Company submits the following:

Take notice that on March 24, 1980 Florida Power & Light Company (FPL) tendered for filing four (4) Exhibits A which provide for the contract demands for the City of Starke, the New Smyrna Beach Utilities Commission, the Fort Pierce Utilities Authority and Florida Keys Electric Cooperative, Inc.

The proposed effective date for the contract demands for Starke, New Smyrna Beach and Florida Keys is March 1, 1980; and the proposed effective date for the contract demand for Fort Pierce is April 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in Accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10340 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-304]

Minnesota Power & Light Co.; Filing

March 31, 1980.

The filing Company submits the following:

Take notice that on March 27, 1980, Minnesota Power & Light Company (MP&L) filed pursuant to the Federal Power Act an executed Amendment and related exhibits, dated March 10, 1980, to the revised Integrated Transmission Agreement (ITA) between MP&L and United Power Association (UPA) that is on file with the Commission as MP&L's Rate Schedule FERC No. 126. The proposed Amendment, when made effective by the Commission, will increase the system control and load dispatching charge paid by UPA to MP&L under the ITA and further provides that either party may from time to time perform operation and maintenance duties on the facilities owned by the other party. MP&L requests a retroactive effective date of March 10, 1980.

MP&L states that copies of the filing were served on UPA and the Minnesota Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10341 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-301]

Missouri Power & Light Co.; Amendment to Electric Service Agreement

March 31, 1980.

The filing Company submits the following:

Take notice that Missouri Power & Light Company (MPL) on March 26, 1980 tendered for filing a proposed Amendment to Electric Service Agreement between MPL and the City of Perry, Missouri.

MPL states that the Amendment, approved by Ordinance No. 233 of the

City of Perry, Missouri, effects a change in language in one paragraph of the existing Electric Service Agreement dated February 1, 1977. The Amendment requires notification to and consultation with MPL should the City of Perry desire to interconnect distribution facilities of two substations serving the city. The current Agreement requires the consent of MPL before any interconnection. The Amendment language was suggested by the United States Justice Department.

MPL states that copies of the Amendment have been mailed or delivered to the Mayor of the City of Perry, Missouri and the Missouri Public Service Commission, located in Jefferson City, Missouri.

MPL also states that the Amendment itself requires no installation or modification of facilities or change in the quality or quantity of service provided or the rate therefor.

MPL also states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10342 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-303]

Northern States Power Co.; Filing

March 31, 1980.

The filing Company submits the following:

Take notice that Northern States Power Company, on March 26, 1980, tendered for filing a Letter Agreement, dated February 29, 1980, with the Department of Energy, United States of America.

The filed Letter Agreement extends certain provisions of Contracts No. 14-06-600-1556 and No. 14-06-600-1940 through November 30, 1980, or until a new interconnection contract is executed, whichever is earlier.

Any person desiring to be heard or to protest such application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10343 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER80-214 and ER80-215]

Pacific Gas & Electric Co.; Order Accepting for Filing and Suspending Proposed Rates, Granting Waiver of Notice Requirements, Granting Intervention, and Establishing Hearing Procedures

March 28, 1980.

On January 31, 1980, Pacific Gas and Electric Company (PG&E) tendered for filing two sets of rate changes. In Docket No. ER80-214, PG&E submitted a proposed two-step increase in wholesale rates for service to Sierra Pacific Power Company (Sierra) under Rate Schedule FPC No. 8 and to nine wholesale electric customers [1] being served under FPC electric tariff Original Volume No. 2.[2] In Docket No. ER80-215 PG&E submitted a two-step increase for service to the County and City of San Francisco (San Francisco).[3] Both dockets are based on the same cost of service data.

PG&E proposes that the first step, consisting of a $4.8 million (7.56%) increase for the calendar 1980 test year, be made effective on April 1, 1980. The second step would produce an additional increase of $5.2 million and would become effective when PG&E's Diablo Canyon Nuclear Unit No. 1 goes into commercial operation.

Step One rates are designed on the basis of a cost of service which excludes all Diablo No. 1 in-service costs. These rates reflect increased demand and energy charges over present rates with no change in the fuel adjustment clause.

Step Two rates are designed on the basis of a cost of service which reflects inclusion of Diablo No. 1 for the entire test period. The supporting cost of service reflects an investment in Diablo No. 1 with AFUDC accumulated through January 31, 1980. Accordingly, Step Two rates include a daily demand charge adjustment to recover any AFUDC accumulated from January 31, 1980, to the actual Diablo No. 1 in-service date.[4] Step Two demand charges will thus be increased for each day by which the Diablo No. 1 operation date goes beyond January 31, 1980—this is a one-time adjustment to be made at the time the Step Two rates are placed in effect. Additionally, in order to synchronize Step Two demand and energy costs, PG&E proposes to modify its Step Two fuel adjustment charges to immediately reflect the effect of lower Diablo No. 1 nuclear energy costs.[5] PG&E indicates that it desires to implement its Step Two rates in a manner compatible with concurrent retail rates. To this end, PG&E states that it will prorate its Step Two rates should the California Public Utilities Commission order less than full inclusion of Diablo No. 1 costs in retail rates. Accordingly, PG&E has filed preliminary Step Two tariff and rate schedule sheets at this time—reflecting full Diablo No. 1 operation. The company proposes to submit finalized Step Two rate schedules and tariff sheets when Diablo No. 1 comes on line, adjusted downward, if appropriate, to coincide with then current retail rates.

Notices of the filings were issued on February 26, 1980, with comments due on or before February 26, 1980. On February 26 the Northern California Power Agency (NCPA), consisting of the

[1] Cities of Alameda, Healdsburg, Lompoc, Ukiah, Santa Clara, Lodi, Palo Alto, Bay Point Light and Power Company, and California Public Utilities Company.

[2] See Attachment A for rate designations.

[3] PG&E indicates that its submittal in Docket No. ER80-215 is the result of pre-filing negotiations with San Francisco aimed at settlement of any potential differences before submittal. PG&E submits that San Francisco consents to the proposed rate changes, pending formal approval by the city's utilities commission. As part of these pre-filing negotiations PG&E states that it has agreed to a rate increase moratorium for this customer until January 31, 1982, unless changes are needed to reflect the commercial operation of Diablo Canyon Nuclear Unit No. 2.

[4] The demand adjustment is stated in $/kw/day and is equivalent to Diablo No. 1 annual AFUDC per kw of annual billing demand.

[5] PG&E's present fuel adjustment clause is based upon a 12-month rolling average. Accordingly, the full effect of lower Diablo No. 1 nuclear energy costs would accrue to the customers only after a full year's operation. PG&E therefore, proposes to modify its fuel clause during the first 12 months of Diablo No. 1 operation to reflect its best estimate of average system fuel costs with a full year of Diablo. Once Diablo No. 1 has been in service a full year, standard fuel clause charges are proposed to be resumed.

cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Alto, Redding Roeville, Santa Clara, Ukiah, and the Plumas-Sierra Rural Electric Cooperative, filed a petition and protest. On February 26, 1980, Modesto and Turlock Irrigation Districts, resale coustomers of San Francisco, filed petitions to intervene. On February 27, 1980, California Pacific Utilities Company and Sierra Pacific Power Company filed untimely petitions to intervene in Docket No. ER80–215.

Discussion

We shall grant waiver of § 35.3 of the Regulations to permit PG&E's step-two rates in each dockets to be submitted more than 120 days before the proposed effective date. The proposed rates shall not become effective prior to the commercial operation of PG&E's Diablo Unit No. 1, upon which the rates are predicated. We will grant PG&E's request for wavier of notice subject to the conditions stated hereafter.

NCPA made requests for summary disposition of three issues. We find that these issues are not appropriate for summary disposition but should be a subject for the hearing ordered below.

NCPA also requested that the Commission order an investigation into the reasonableness of the present rates under Section 206 of the Federal Power Act. Such a request is unnecessary. As a matter of practice, the Commission sets every proceeding arising under Section 205 of the Federal Power Act for hearing under Section 206 as well. And because of the test-year approach to ratemaking reflected in the filing requirements of § 35.13 of the Commission's regulations, the entire rate, not just the increase, is the subject of investigation in proceedings institututed under Section 205.[6] Central Maine Power Co., Docket No. ER79–539, order issued September 28, 1979, mimeo at 4.

NCPA alleges the potential of price squeeze between PG&E's retail and wholesale rates. We shall order price squeeze procedures in accordance with Arkansas Power and Light Company, Docket No. ER79–339, order issued August 6, 1979 (mimeo at 6). The proceeding shall be phased so that a Commission decision may first be reached on cost of service, rate of return and capitalization issues. If in the view of NCPA price squeeze persists after first phase, a second phase on this issue may be established. This procedure, however, should not foreclose a determination by the presiding judge that special circumstances warrant immediate consideration of price squeeze issues. Any such ruling by the presiding judge is discretionary and thus not appealable to the Commission under § 1.28 of our rules of practice and procedure.

Our review of the filings by PG&E indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept PG&E's submittals for filing, and suspend their effectiveness as follows: Phase one in Docket Nos. ER80–214 and ER80–215 will be suspended and allowed to become effective, subject to refund, on September 1, 1980, five months from the proposed effective date of April 1, 1980. The second phase will be suspended and allowed to become effective, subject to refund, three months from the commercial operation date of Diablo Unit No. 1. Waiver of our notice requirements is concurrently granted in order to permit the second phase increase to go into effect more than 120 days after filing. If PG&E lowers and finalizes its phase two rates concurrent with the retail rates as part of its notification that Diablo Unit No. 1 has gone into commercial operation, the company may request reconsideration of the three month suspension period on a prospective basis. All petitions to intervene indicate material interest in the outcome of this proceeding, may be in the public interest, and will be granted. Docket Nos. ER80–214 and ER80–215 will be consolidated for hearing and decision in view of the common issues of law and fact involved.

The Commission orders

(A) The first phase of the proposed increases is suspended for five months, to become effective September 1, 1980, subject to refund.

(B) Waiver of the notice requirements of Section 35.3 of our regulations is granted in order that the second phase increase may be submitted for filing more than 120 days before its proposed effective date.

(C) The second phase of the proposed increases is accepted for filing and the proposed effective date deferred until Diablo Canyon Nuclear Unit No. 1 is declared in commercial operation. The phase two rates shall be suspended to become effective, subject to refund, three months after the proposed effective date. PG&E shall file with the Commission a notice of the declaration of Diablo Canyon Nuclear Unit No. 1 in commercial operation by the Nuclear Regulatory Commission within 7 days thereafter.

(D) Notice is hereby provided that the suspension period in ordering paragraph (C) may be modified to take effect prospectively on the basis of a lowering of finalized second phase rates. PG&E shall file its finalized rates as soon as practicable after the commercial operation date is determined.

(E) All petitions to intervene are granted subject to the rule and regulations of the Commission; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* That the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(F) Docket Nos. ER80–214 and ER80–215 are consolidated.

(G) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The Presiding Judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, specifically Sections 205 and 206, and by the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of PG&E's proposed rates.

(I) Staff shall serve top sheets in this proceeding on July 17, 1980.

(J) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and

[6] As provided in Section 205, the burden of proof as to the proposed increase is on the applicant, whereas the burden of proving that an existing Commission-approved or accepted rate should be lowered is on the party proposing the rate decrease. If such a rate reduction is found to be appropriate, it would be effective prospectively only.

motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Pacific Gas & Electric Co. Rate Schedule Designations

Dated: Undated.
Filed: Jan. 31, 1980.

Designations	Description	Other party
Docket No. ER80-214		
(1) Supplement No. 15 to Rate Schedule FPC No. 8 (Supersedes Supplement No. 12 to Rate Schedule FPC No. 8).	Fifth Revised Sheet No. 1 and Second Revised Sheet No. 2.	Sierra Pacific Power Company.
(2) FPC Electric Tariff Original Volume No. 2:		
(a) First Revised Sheet No. 1 (Supersedes Original Sheet No. 1)	Table of Contents	Tariff Customers
(b) Fourth Revised Sheet No. 4 (Supersedes Third Revised Sheet No. 4).	R-1 Resale Rates	Do.
(c) Second Revised Sheet No. 5 (Supersedes First Revised Sheet No. 5).	do	Do.
(d) Original Sheet No. 5A	R-2 Resale Rates	Do.
(e) Original Sheet No. 5B	do	Do.
(f) First Revised Sheet No. 27 (Supersedes Original Sheet No. 27)	Service Agreement Information.	Do.
(g) Third Revised Sheet No. 28 (Supersedes Second Revised Sheet No. 28).	Index of Purchasers	Do.
Docket No. ER80-215		
(3) Supplement No. 6 to Rate Schedule FPC No. 53 (Supersedes Supplement No. 5 to Rate Schedule FPC No. 53).	Second Revised Sheet No. 5	City and County of San Francisco.

Filed: (4)–(8) June 21, 1976; (9) Aug. 8, 1977.
Dated: (4) Mar. 14, 1945; (5) June 8, 1976; (6) June 8, 1976; (7), (8), and (9) undated.
Effective: (4), (5), and (7) Aug. 1, 1975; (8) July 22, 1976; (9) Jan. 1, 1977.

Designations	Description	Other party
(4) Rate Schedule FPC No. 53 (Redesignation of Exhibit A to Rate Schedule FPC No. 53).	Agreement for Disposal of Hetch Hetchy Power.	City and County of San Francisco.
(5) Supplement No. 1 to Rate Schedule FPC No. 53 (Redesignation of Exhibit B to Rate Schedule FPC No. 53).	Amendment for Disposal of Hetch Hetchy Power.	Do.
(6) Supplement No. 2 to Rate Schedule FPC No. 53 (Redesignation of Exhibit C to Rate Schedule FPC No. 53).	Letter Agreement of June 1, 1976.	Do.
(7) Supplement No. 3 to Rate Schedule FPC No. 53 (Redesignation of Supplement No. 1 to Rate Schedule FPC No. 53).	Settlement Rates	Do.
(8) Supplement No. 4 to Rate Schedule FPC No. 53 (Redesignation of Rate Schedule FPC No. 53).	Company Tariff Sheets 3–7	Do.
(9) Supplement No. 5 to Rate Schedule FPC No. 53 (Redesignation of Supplement No. 3 to Rate Schedule FPC No. 53).	First Revised Sheet No. 5	Do.

[FR Doc. 80-10344 Filed 4-4-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-306]

Pacific Power & Light Co.; Filing

March 31, 1980.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on March 26, 1980, tendered for filing, in accordance with § 35.12 of the Commission's Regulations, letters of agreement with Portland General Electric Company (PGE) and Puget Sound Power & Light Company (Puget) dated March 10, 1980 providing for a sale of firm daytime peaking power.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective March 10, 1980, which it claims is the date of commencement of service.

Copies of the filing were supplied to PGE and Puget.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10345 Filed 4-4-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. GP80-19]

Panhandle Eastern Pipe Line Co.; Third-Party Protest [1]

Issued: March 31, 1980.

Take notice that on January 28, 1980 and February 25, 1980 the State of Michigan and the Michigan Public Service Commission in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B,[2] and "Order on Rehearing of Order No. 23–B," [3] jointly filed Supplemental Third-Party Protests to their original protest. Both parties protest the Panhandle Eastern Pipe Line Company (Panhandle) contracts in Appendix A and B, stating they do not constitute contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before April 14, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

January 28, 1980.

Appendix 3.—*Type "A" Area Rate Contracts*

Seller	Rate schedule number	Date
Beaver Mesa Exploration Co	SPC	9/14/71
Beaver Mesa Exploration Co. (3 contracts).	SPC	5/6/75
Chamberlain Family Group (6 contracts).	SPC	12/15/71
Chamberlain Family Group	SPC	8/4/71
Corpening Cos. 1973 Ltd	SPC	9/25/74

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

Appendix 3.—*Type "A" Area Rate Contracts*—Continued

Seller	Rate schedule number	Date
Crystal Expl. & Prod. Co	SPC	9/24/73
Escor Inc	SPC	2/8/74
Mary A. Hamilton	SPC	11/19/71
E. Lyle Johnson	SPC	6/9/72
W. B. Osborn Jr. (3 contracts)	SPC	7/1/67
W. B. Osborn Jr.	SPC	7/23/70
Charles Sarratt	SPC	9/25/74
Guy M. Steele Jr. (2 contracts)	SPC	6/22/67

Appendix 4.—*Type "B" Area Rate Contracts*

Seller	Rate schedule number	Date
Beaver Mesa Exploration Co	SPC	11/4/70
Beaver Mesa Exploration Co. (4 contracts).	SPC	7/30/71
Beaver Mesa Exploration Co. (6 contracts).	SPC	8/1/71
Husky Oil Co	SPC	2/13/78

Appendix 5.—*Type "C" Area Rate Contracts*

Seller	Rate schedule number	Date
John P. Castleman Jr	SPC	9/14/78
John P. Castleman Jr	SPC	10/4/78
Husky Oil Co. (2 contracts)	SPC	3/1/78
Nova Energy Corp	SPC	5/24/78

Appendix 6.—*Type "D" Area Rate Contracts*

Seller	Rate schedule number	Date
John P. Castleman Jr. (4 contracts).	SPC	5/19/77
Chamberlain Family Group	SPC	1/29/76
Krizman Enterprises	SPC	4/13/76
W. B. Osborn Jr. (3 contracts)	SPC	11/17/77
W. B. Osborn Jr.	SPC	6/8/78
W. B. Osborn Jr.	SPC	9/23/78

Appendix 8.—*Miscellaneous*

Seller	Rate schedule number	Date
Global Oils Inc	SPC	4/10/63

Appendix 3.—*Type "A" Area Rate Contracts*

Seller	Rate schedule number	Date of contract
Murphy, David L	000	5/15/72
Samedan Oil Corporation, et al	000	8/20/70

Appendix 6.—*Type "D" Area Rate Contracts*

Seller	Rate schedule number	Date of contract
Phoenix Resources Company	000	5/1/67
Phoenix Resources Company	000	5/1/67
Phoenix Resources Company	000	5/1/67
J. D. Simmons, Inc	000	2/4/76

[FR Doc. 80-10346 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-307]

Public Service Co. of Indiana, Inc.; Proposed Tariff Change

March 31, 1980.

The filing Company submits the following:

Take notice that on Public Service Company of Indiana, Inc. on March 27, 1980, tendered for filing pursuant to the Kentucky-Indiana Power Planning And Operating Agreement between East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, Kentucky Utilities Company, and Public Service Company of Indiana, Inc. Amendment No. 6 to become effective May 24, 1980.

Said Amendment No. 6 increases the demand charge for Back-Up Power and Short Term Power from 70¢ per kilowatt per week to 85¢ per kilowatt per week.

Copies of the filing were served upon East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, Kentucky Utilities Company, Public Service Commission of Indiana, and Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10347 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-302]

Public Service Co. of Oklahoma; Cancellation

March 31, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Oklahoma on March 26, 1980, tendered for filing a notice of Cancellation of the Letter Agreement dated November 3, 1977, Supplement to Rate Schedule FERC No. 181 between Public Service Company of Oklahoma and The Empire District Electric Company. PSO indicates that this cancellation is to be effective as of May 31, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file petition to intervene. Copies of this application are filed with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10348 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-283]

Texas Eastern Transmission Corp.; Application

March 28, 1980.

Take notice that on March 18, 1980, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP80-283 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for Public Service Electric and Gas Company (Public Service), all as more fully set forth in the application on file with the Commission and open to public inspection.

Public Service has arranged to purchase natural gas from Equitable Gas Company (Equitable) for electric generation to displace the use of No. 6 fuel oil, it is stated.

Applicant requests authorization to transport for Public Service up to 51,394 dekatherms (dt) equivalent of natural gas per day, less volumes for shrinkage and fuel use, pursuant to a gas transportation agreement dated March 11, 1980. Applicant would receive the stated quantities of natural gas from Equitable at the existing point of interconnection between Applicant and Equitable in Westmoreland County, Pennsylvania, or at other mutually agreeable points of receipt in Applicant's Zone C, and would transport and redeliver equal quantities, less quantities for fuel and shrinkage, to Public Service at the existing point of interconnection with Applicant in Union County, New Jersey, or at other mutually agreeable points of delivery, for a term ending May 31, 1980.

Applicant proposes to charge Public Service a rate of 16.08 cents per dt equivalent delivered by Applicant to Public Service. Additionally, Public Service would pay Applicant 18.80 cents per dt equivalent, subject to the outcome of proceedings at Docket No. RP78–87, which, when added to quantities delivered by Applicant to Public Service under Applicant's Rate Schedules TS–1 and TSS or proposed Rate Schedule SS–II and other transportation agreements, would exceed the combined total curtailment of gas sales to Public Service under all of Applicant's firm rate schedules, it is stated. Applicant states that it would retain for fuel use and shrinkage an amount of gas equal to 6 percent of the quantities transported through April 15, and 3 percent through May 31, 1980.

Applicant asserts that the service proposed herein would not adversely affect or displace capacity for services or sales to high priority users.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 11, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–10349 Filed 4–4–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–305]

Tucson Electric Power Co.; Filing Tucson-Los Angeles Interchange Agreement

March 31, 1980.

The filing Company submits the following:

Take notice that Tucson Electric Power Company ("Tucson") on March 27, 1980, tendered for filing an Interchange Agreement between Tucson and Los Angeles Department of Water and Power ("Los Angeles"). The primary purpose of this Agreement is to establish the terms and conditions relative to the exchange of generating capacity and energy between the electric systems of Tucson and Los Angeles. Tucson states that copies of the filing were served upon Los Angeles.

Any person desiring to be heard or to make any application with reference to said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–10350 Filed 4–4–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–297]

Wisconsin Power & Light Co.; Filing

March 31, 1980.

Take notice that on March 24, 1980, Wisconsin Power & Light Company (WP&L) tenderd for filing a revision of its rate schedules for "Resale Service" based on the proposed interim annual increase of $171,094 for the twelve months preceding the effective date of October 1, 1980.

WP&L states that it has no other rates for similar wholesale services.

WP&L further states that no additions or changes to facilities are to be made in order to supply the service to be furnished under the proposed rate schedule.

WP&L is asking for Period II, the calendar year 1980, permanent annual increases of $2,609,000 for wholesale electric service.

According to WP&L the following is a brief description of the proposed changes in the rate schedules:

1. The level of energy and demand rates has been changed to recover proposed revenue under bond and final revenue.

2. Energy charges have been changed to time-of-day rates to more closely track costs.

3. The fuel cost adjustment factor base has been changed to reflect test year costs and sales.

4. The fuel cost adjustment factor calculation has been changed to use estimated fuel costs and sales to eliminate the lag from when expenses are incurred to collection of revenues. A reconciliation provision adjusts for differences in estimates and actual expenses and sales.

WP&L indicates that the statement of the cost of service as contained in this filing for Period I (twelve months ended September 30, 1979), is the most recent twelve months for which actual data is available. The test period (Period II), for which data based on estimates is contained in this filing, is for the Test Year 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of

practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10351 Filed 4-4-80; 8:45 a.m.]

BILLING CODE 6450-85-M

[Docket No. PV-1452]

Chase Transportation Co.; Basic Tentative Valuation

April 3, 1980.

Notice is hereby served that the Federal Energy Regulatory Commission is considering a basic tentative valuation, effective December 31, 1974, for Chase Transportation Company, an interstate oil pipeline, P.O. Box 2256, Wichita, Kansas 67201.

On or before May 6, 1980, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act may file with the Federal Energy Regulatory Commission, pursuant to rule 70 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.70), an original and three copies of petitions for leave to intervene in this proceeding. The petitioner shall attach to the petition a certificate of service as prescribed in rule 20 (49 CFR 1100.20).

If the petition for leave to intervene is granted, the petitioner is eligible to protest the valuation. Persons designated in Section 19a(h) of the Act may protest without filing a petition.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 80-10388 Filed 4-4-80; 8:45 am]

BILLING CODE: 6450-85-M

[Docket No. CP77-282]

Columbia Gas Transmission Corp; Petition to Amend

April 1, 1980.

Take notice that on March 17, 1980, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-282 a petition to amend the order issued in the instant docket on July 1, 1977 [1], as amended May 2, 1978, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the facilities actually installed in Petitioner's Coco Storage Complex, Kanawha County, West Virginia, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Petitioner states that on July 1, 1977, it was authorized to drill and operate 33 additional storage wells, to construct and operate 8.8 miles of additional 4, 6, and 8-inch well and field pipelines, and to install and operate an additional 4,250 horespower compressor unit in its Coco Storage Complex. The Commission's order further required that the authorized facilities be constructed and placed in actual operation before July 1, 1980, it is stated.

By order of May 2, 1978, the Commission amended its July 1, 1977, order, which amendment substituted the 4,250 horsepower compressor unit with one of 4,000 horsepower, it is said.

Petitioner states that it has drilled and connected to the field pipeline system in its Coco Storage Complex, 24 additional storage wells in lieu of the 33 wells originally proposed. Petitioner asserts that the reduction in the number of wells drilled resulted from an inability to secure satisfactory drilling sites at either the original or alternate sites. As a result of the reduction in the number of wells drilled, it is stated that only 24 wellhead measuring facilities were utilized and only 6.1 miles of 4, 6, and 8-inch connecting well and field pipeline were installed. Additionally it is said that the master measuring facilities were completed and placed in service as authorized.

Annual storage turnover volume from the Coco Storage Complex was increased by approximately 7,640,000 Mcf, 760,000 Mcf less than originally estimated because of the reduced number of wells drilled.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10387 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By joint Regulation of October 1, 1977 (10 CFR 1000.1) it was transferred to the Commission.

[Docket No. CP80-289]

Columbia Gas Transmission Corp.; Notice of Application

April 1, 1980.

Take notice that on March 20, 1980, Columbia Gas transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-289 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to construct and operate approximately 30.4 miles of 4, 10 and 12-inch transmission pipeline as an extension to Applicant's existing Mayville area pipeline system, all of which is located in Chautauqua County, New York. the 10 and 12-inch pipeline would extend approximately 23.8 miles in an easterly direction from the northern terminus of the existing 12-inch pipeline which is located aproximately three-fourths of a mile north of the village of Mayville, New York, it is stated. Applicant further states that lateral pipelines varying in length from 0.2 mile to 4.5 miles would be constructed to transport gas to the above-described pipeline.

Applicant estimates that the 57,000 acres accessed by the proposed facilities contain a 83,400,000 Mcf natural gas reserve. Applicant states that this new natural gas supply would be delivered to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. for transportation and exchange.

The costs of the proposed facilities is estimated to be $5,497,700 which cost would be financed from funds generated internally, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10388 Filed 4-4-80; 8:45 am]

BILLING CODE: 6450-85-M

[Docket No. CP 80-290]

Columbia Gas Transmission Corp.; Notice of Application

April 1, 1980.

Take notice that on March 21, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-290 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 94 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspecton.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc. 4 taps for residential service; Estimated annual usage of 600 Mcf.

(2) Columbia Gas of Ohio, Inc. 55 taps for residential service, 1 tap for commercial service, 1 tap for combined residential and industrial service; Estimated annual usage of 13,650 Mcf.

(3) Columbia Gas of Pennsylvania, Inc. 3 taps for residential service; Estimated annual usage of 450 Mcf.

(4) Columbia Gas of Virginia, Inc. 1 tap for residential service, 1 tap for commercial service; Estimated annual usage of 330 Mcf.

(5) Columbia Gas of West Virginia, Inc. 27 taps for residential service; Estimated annual usage of 4,200 Mcf.

(6) West Ohio Gas Company. 1 tap for residential service; Estimated annual usage of 160 Mcf.

Applicant states that the additional volumes to be provided through the new points of delivery are within Applicant's currently authorized level of sales.

The total cost of the proposed interconnections is estimated to be $28,300 which cost would be financed by funds generated internally.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a heaing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10389 Filed 4-4-80; 8:45 am]

BILLING CODE: 6450-85-M

[Docket No. CP80-281]

Columbia Gulf Transmission Co. Notice of Application

April 1, 1980.

Take notice that on March 14, 1980, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP80-281 an application pursuant to Section 7 of the Natural Gas Act and Sections 157.7(b) and 157.7(g) of the Regulations thereunder (18 CFR 157.7(b) and (g)) for (1) a certificate of public convenience and necessity authorizing the construction during an indefinite period commencing with the calendar year 1980 and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, and (2) authorization for the construction and operation and for permission and approval to abandon, for a 12-month period commencing with the date of the order, various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget type application is (1) to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies natural gas which may become available from various producing areas generally coextensive with its pipeline system which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978, and (2) to enable Applicant to Act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed gas supply facilities would not exceed $20,000,000 with no single offshore project expenditure to exceed $3,500,000 and no single onshore project

to exceed $2,500,000 and that the total cost of its proposed construction, relocation, operation, removal and abandonment of field compression facilities would not exceed $2,000,000 with no single project to exceed $1,000,000. Applicant states that these costs would be financed from internally generated funds.

Because of increased costs due to inflation, as more fully set forth in the application, Applicant requests a waiver of the single project cost limitations set forth in Section 157.7(g)(iii) of the Commission Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a aproceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonments are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10390 Filed 4-4-80; 8:45 am]

BILLING CODE: 6450-85-M

[Docket Nos. RP79-23 and RP79-24]

Distrigas of Massachusetts Corp. and Distrigas Corp.; Order Approving Settlement With Modification

Issued: April 1, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

Distrigas of Massachusetts Corporation (DOMAC) and Distrigas Corporation (Distrigas), both wholly-owned subsidiaries of the Cabot Corporation, are engaged in the importation of Algerian liquefied natural gas (LNG) for sale to gas distribution companies in the United States. Distrigas imports the LNG and sells it to its sole customer, DOMAC. DOMAC receives and stores the LNG at it terminal in Everett, Massachusetts, and resells it to its distribution company customers.

The proceeding in Docket No. RP79-23 involves a rate increase application filed by DOMAC on January 5, 1979, seeking an increase of approximately $4.4 million annually in revenues derived from the terminalling service it provides for eleven distribution company customers. As part of this filing, DOMAC included tariff sheets which provided for collection of demurrage charges through its purchased gas adjustment (PGA) clause. DOMAC also filed alternative tariff sheets which would provide recovery of an estimated annual demurrage expense of $1 million under its TS (terminalling service) Rate Schedule. On the same date as the DOMAC filing, Distrigas filed revised tariff sheets in Docket No. RP79-24 to specify demurrage charges as a component of the delivered cost of LNG to be recovered in the Distrigas sales to DOMAC. This filing would not change the effective rate, but would provide DOMAC with justification for considering the demurrage charge part of its purchased gas costs eligible for automatic adjustment through its PGA.

By order of February 2, 1979, the Commission consolidated the dockets, accepted for filing the proposed tariffs which included treatment of the demurrage costs through the PGA, suspended their effectiveness for five months, and rejected the alternative sheets providing for including demurrage costs in the TS rate.

The parties to these proceedings [1] subsequently entered into settlement negotiations culminating in a proposed settlement agreement which was filed with the Commission on October 2, 1979. The settlement was referred to the presiding judge for consideration pursuant to the terms of Order No. 32.[2] Initial and reply comments on the settlement were received by the judge. While all parties supported the settlement, the staff of the Commission objects to certain of the settlement provisions.

The staff voices three principal objections to the settlement. First, the settlement provides for a 13-percent overall rate of return based on DOMAC's existing capital structure. The staff objects to this rate of return and to the use of the existing capital structure for deriving DOMAC's cost of capital, claiming that the existing structure fails to reflect DOMAC's true operating risks. The staff recommends using the capital structure of DOMAC's parent, Cabot Corporation, as it believes this would yield a representative cost of capital under competitive market conditions. According to the staff, use of Cabot's capital structure would show DOMAC entitled to only a 10.71 percent overall rate of return.

Second, the staff objects to the settlement sales volume of 24 trillion Btu (TBtu) upon which the settlement rates are predicated. Upon an appraisal of DOMAC's future supply posture, the staff finds the 24 TBtu settlement volume unreasonably low and estimates that DOMAC is capable of selling at least 32 TBtu annually.

Finally, the staff takes issue with the formulation of the settlement rate base and the calculation of the settlement cost of service. It urges the disallowance of certain items it finds inappropriately included both in the rate base and in the cost of service, and cites several adjustments it deems necessary. If adopted, the staff's recommended adjustments would reduce the rate base from $32.2 million to $30.2 million and the cost of service from $15.3 million to $13.3 million.

Notwithstanding the staff's objections, the presiding judge concluded that the settlement was reasonable in all respects and in his certification recommended that it be approved.

Upon review of these matters, the Commission finds that two of the staff's

[1] Bay State Gas Company, The Berkshire Gas Company, Boston Gas Company, The Connecticut Gas Company, Fall River Gas Company, Haverhill Gas Company, New Jersey Natural Gas Company, The Providence Gas Company, South Jersey Gas Company, Valley Gas Company, and The Brooklyn Union Gas Company.

[2] Docket No. RM78-16, issued June 13, 1979. In order No. 32, the Commission enunciated a policy encouraging settlements to be made when in the public interst and prescribed procedures to expedite consideration of settlements either filed directly with the Commission or certified by presiding officers. These new procedures may be found at section 1.18(e) of the Commission's Regulations.

objections, though valid in identifying a necessary reduction in DOMAC's rate base and in questioning the reliability of its projected sales volume, are capable of remedy through modification which, if concurred in by DOMAC, would warrant approval of this settlement. The staff's rate of return objections are found to be without merit.

Rate of Return and Captial Structure

The settlement provides for a 13 percent overall rate of return on existing capitalization, or 0.8 percent less than the rate of return sought by DOMAC in its filing. The settlement rate of return was computed from DOMAC's capital structure consisting of 68.29 percent equity and 31.71 percent debt.

The staff objects both to the overall rate of return resulting under the settlement and to the use of DOMAC's existing capital structure in computing this return. The staff argues that the existing capital structure should not be used because it fails accurately to reflect the company's true operating risks. Rather, it advocates using the capital structure of DOMAC's parent company, Cabot Corporation, in calculating the cost of capital for DOMAC. The staff relies on the Commission's decision in Opinion No. 7, *Kentucky West Virginia Gas Company*, Docket No. RP73–97, issued Februrary 16, 1978, which it claims supports the imputation of a parent's captial structure and cost of capital to a subsidiary for rate-setting puposes under circumstances found here. In addition, the staff argues that the certification proceeding cited in support of the settlement carries no precedential weight since the initial rates aproved there were not scrutinized under the same standard of review applicable here.

DOMAC argues that the Commission previously approved this same rate of return derived from essentially the same capital structure in Docket Nos. CP77–216 *et al.*, order issued December 28, 1978, where DOMAC was granted authorization both for the construction of LNG facilities and for the initial sale of LNG to the identical parties in this proceeding. It thus claims the Commission's prior conclusions of that proceeding foreclose the staff's attempts here to relitigate the capital structure and rate of return questions.

Upon review of this matter, the Commission concludes that the overall rate of return provided under the proposed settlement has been based appropriately on a capital structure which reasonably reflects DOMAC's present operating risks. We thus decline to require use of an alternative capital structure for deriving an overall rate of return or to impose a reduction in the return level itself.

We base this decision largely on findings arrived at little more than a year ago when we had occasion to evaluate DOMAC's existing capital structure and operating risks in the certification proceeding in Docket Nos. CP77–216, *et al.*[3] The instant record is devoid of evidence demonstrating that since then DOMAC has assumed any greater debt or in any fashion altered its manner of capitalization. DOMAC's capital structure today it thus identical to that at the time that proceeding was decided. Moreover, no evidence is found in this record showing any reduction or shift in those operating risks previously considered. Absent a showing of any material change in circumstances, we conclude that our prior decision on this issued should be deemed controlling. Accordingly, the settlement rate of return is found to be reasonabe and is approved.

Sales Volume and Rate Design

The settlement rate design consists of a straight line rate and a charge for excess sales, in contrast to the former three-tier design. The straight line rate is fashioned to allow DOMAC to recover its total cost of service based upon a test period sales volume of 24 TBtu. ($15.3 million ÷ 24TBtu = 63.75 cents per MMBtu) The charge for all volumes sold in excess of the test period annual sales volume is 10 cents per MMBtu.

The staff argues that the settlement sales volume is understated and that an analysis of DOMAC's supply posture shows a capability of purchasing (and reselling) volumes greater than 24 TBtu. The staff points out that DOMAC has contracted with Algeria to purchase 43.5 TBtu annually over a 20-year period. It presently receives deliveries from three liquefication lines at Skikda, Algeria, to which it is entitled to 12 percent of production capacity plus any excess. Even though each of these lines has exceeded design capacity in the past, the three have not been operated simultaneously. Therefore, the staff believes that DOMAC reasonably can expect growth in supply from these lines. In addition, the staff claims the Skikda supply will be increased when service, scheduled for November 1979, is initiated from a fourth line to which DOMAC holds priority. The staff further notes that DOMAC also has been receiving regular shiploads of surplus production from facilities in Arzew, Algeria. These deliveries show signs not only of continuing at present levels but of possibly increasing since the purchaser holding priority to these volumes has been unable to utilize it full entitlement.

Staff's recommended rate design consists of three charges, including a straight line rate for all sales up to 22.104 TBtu, a straight line rate for the remainder of sales necessary to meet the staff's claimed test period sales of 32 TBtu, and a charge of 1.3 cents per MMBtu for all sales in excess of the test period level. The first block or tier rate is designed to recover approximately 80 percent of staff's cost of service. The second tier or block rate is designed to recover the remainder of the total cost of service. The charge of 1.3 cents per MMBtu for all sales in excess of staff's test period annual sales is based on the variable cost incurred. As is evident, DOMAC must sell at least 32 TBtu in order to recover the fixed cost portion of the staff's total cost of service.

DOMAC argues that the staff fails to appreciate the serious nature of forecasting the appropriate test year level of LNG volumes, the result of which holds grave implications not only for itself, but for its purchasers and the customers of its purchasers. DOMAC points out that should the cost recovery ceiling be raised to 32 TBtu as recommended by the staff, this would result in a shortfall in annual revenues of $1.5 million below the revenues yielded under the underlying rates.

Upon review of this matter, the Commission finds the staff has shown there is a clear possibility that DOMAC will realize sales in excess of the 24 TBtu settlement volume. There can be no doubt that to the extent DOMAC does in fact realize sales in excess of the settlement level, it will realize revenues in excess of its stipulated costs. DOMAC's general exhortations concerning the difficulty of reliably forecasting sales, without more, carry scant weight. Nonetheless, we decline to adope the staff's recommended solution of raising the volume ceiling to 32 TBtu as we find this figure also to be without adequate support in the record.

A feasible solution may be found not in raising the settlement volume but in fashioning a sales refund obligation which would take effect in the event DOMAC's sales exceed 24 TBtu. In this manner both DOMAC and its customers would be protected. DOMAC would be permitted sufficient revenue to meet its costs while its customers would be refunded any excess revenues earned

[3] There we approved a 13 percent overall rate of return, giving significant weight to the fact that the customers stated a willingness to pay for this return in exchange for DOMAC's bearing a greater portion of risks which resulted from certain of its minimum bill provisions. The instant record shows these provisions to be unchanged here.

from sales exceeding the volume on which the settlement rates are predicated. This would appear to be a reasonable solution in light of the uncertainty of accurate supply forecasting suggested by the disparate projections of both DOMAC and the staff.

Accordingly, approval of this settlement will be conditioned upon inclusion of a sales refund obligation. On sales made in excess of 24 TBtu, DOMAC would recover more than its total cost of service by an amount equal to the fixed costs included in its delivery rate. The settlement rate of 10 cents per MMBtu for sales in excess of 24 TBtu reflects fixed costs of 8.2 cents per MMBtu.[4] Therefore, the sales refund obligation should be designed to require DOMAC to refund its customers the product of 8.2 cents times all volumes sold in excess of 24 TBtu. Moreover, it should include a provision for interest on all amounts refunded. Should DOMAC find this condition acceptable, it shall formulate a sales refund obligation along these lines and shall submit the same to the Commission for review and approval.

Other Cost of Service and Rate Base Issues

The settlement cost of service totals $15.3 million. DOMAC's rate base is stipulated to be $32.2 million. The staff claims certain adjustments are warranted which, if adopted, would reduce the rate base to approximately $30.2 million and the cost of service to $13.3 million. Upon review of this matter, the Commission concludes that one of the adjustments argued by the staff is meritorious and should be adopted.

The staff claims that prior to 1976 DOMAC utilized accelerated depreciation but neglected to account adequately for accumulated deferred income taxes carried in its account 282. It thus recommends the inclusion of $1.56 million to this account, an amount representing the difference between accumulated accelerated and straightline depreciation for the years 1972 through 1978 and the additional six month period ended June 30, 1979. If included in the account 282, the $1.56 million would be added to the existing $416,082 in the account and the total of approximately $1.98 million would be deducted from DOMAC's rate base in accordance with the Commission's established policy.[5]

DOMAC objects to a claimed need to augment its account 282, alleging that the staff's demand erroneously assumes that taxable income was realized during the full period in question. To the contrary, DOMAC cites $10.8 million in operating losses incurred prior to October 1, 1976.

The Commission concurs with the staff that DOMAC has neglected to account properly for its accumulated deferred income taxes. By utilizing accelerated tax depreciation, the consolidated group (Cabot Corporation) of which DOMAC is a member continued to receive tax benefits even though DOMAC sustained operating losses on a separate return basis. Were this adjustment reflecting the consolidated group's past utilization of such tax benefits not imposed at this time, customers eventually would be required to contribute to DOMAC's increased tax burden because of the unavailability of these tax deductions. The full receipt of these benefits thus should have been reflected in DOMAC's accumulated deferred tax account notwithstanding the absence of taxable income on a separate return basis during a portion of this period. Since DOMAC failed to maintain a proper accounting, this now necessitates an adjustment of $1.56 million to its account 282 and an equivalent reduction in its rate base.

Accordingly, approval of this settlement will be conditioned upon the foregoing modification of DOMAC's account 282 and corresponding reduction of its rate base.

The Commission orders:

(A) The settlement agreement certified by the presiding judge on November 27, 1979, is approved, subject to the modifications described in this order.

(B) Within 30 days from the date of this order DOMAC shall advise the Commission whether the settlement as modified is acceptable to it. If so, DOMAC shall submit, concurrently, revised rates and a revised cost of service reflecting the terms of the settlement agreement as modified.

(C) Within 30 days following approval of the rates, if any, submitted pursuant to paragraph (B) above, DOMAC shall refund to its jurisdictional customers all amounts collected in excess of the approved rates together with interest at the rates specified in section 154.67(d) of the Commission's regulations. Within 10 days thereafter DOMAC shall submit a statement showing the calculation of refund and interest paid.

(D) Upon compliance by DOMAC with paragraphs (C) and (D) above, this proceeding shall be terminated.

By the Commission.

Kenneth F. Plumb,

Secretary.

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[4] DOMAC shows variable costs of $427,308 or 1.8 cents per MMBtu based on 24 TBtu. Subtracting this from the 10 cents rate yields 8.2 cents.

[5] Since 1964 the Commission has consistently required deferred taxes carried in the account 282 to be deducted from the rate base. See *Alabama-Tennessee Natural Gas Co.*, 31 F.P.C. 208 (1964), *aff'd sub nom. Alabama-Tennessee Natural Gas Co. v. F.P.C.*, 359 F. 2d 318 (5th Cir. 1966), *cert. denied*, 385 U.S. 847 (1966). This policy also is articulated in the Commission's regulations. See 18 CFR 2.67 (1979).

[Project No. 3064]

City of Fayetteville, N.C. Public Works Commission; Application for Preliminary Permit

March 31, 1980.

Take notice that on March 3, 1980, the City of Fayetteville, North Carolina, Public Works Commission (Applicant) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)–825(r)] for the proposed hydroelectric power project to be known as the William O. Huske Project (FERC Project No. 3064), located on the Cape Fear River in Bladen County, North Carolina. The proposed project would be located on a navigable waterway of the United States and would utilize the Corps of Engineers' William O. Huske Lock and Dam. Correspondence with the Applicant should be directed to: Mr. R. A. Muench, Jr., General Manager, City of Fayetteville, Public Works Commission, 508 Person Street (P.O. Drawer 1089), Fayetteville, North Carolina 28302.

Purpose of Project—Project energy would be utilized in meeting power requirements of the residents of the City of Fayetteville, North Carolina.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months during which time the Applicant proposes to study the feasibility of installing hydroelectric generating units at the existing William O. Huske Lock and Dam of the U.S. Army Corps of Engineers. Applicant estimates the cost of studies under the permit would be $50,000.

Project Description—Applicant's proposed project would consist of: (1) a powerhouse constructed adjacent to the east end of the ungated spillway section of the U.S. Dam; (2) hydroelectric generating units (number, size and type to be determined in the course of the study) with a total estimated installed capacity of between 6,000 and 10,000 kW; (3) approximately 1.5 miles of

transmission line to connect to an existing electric distribution system; and (4) appurtenant facilities.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, Applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (Copies of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before June 9, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 8, 1980. A notice of intent must conform with requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before June 9, 1980. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10392 Filed 4-4-80; 8:45 am]

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[Docket No. EL80-22]

General Public Utilities Corp. et. al.; Complaint and Request for Investigation

March 31, 1980.

In the matter of General Public Utilities Corp.; Public Service Electric and Gas Co.; Philadelphia Electric Co.; Pennsylvania Power and Light Co.; Baltimore Gas and Electric Co.; Potomac Electric Power Co.

Take notice that on March 21, 1980, General Public Utilities Corporation (GPU) on behalf of itself and its subsidiaries, Jersey Central Power and Light Company, Metropolitan Edison Company and Pennsylvania Electric Company filed a complaint alleging that, under present conditions, the pricing arrangement contained in the Pennsylvania-Jersey-Maryland power pooling agreement (PJM agreement) is unjust and unreasonable insofar as it applies the "split-savings" concept to those additional energy purchases made by GPU and its subsidiaries as a result of the accident at Three Mile Island No. 2 generating unit. GPU alleges that the split-savings concept is unjust and unreasonable as applied to GPU's current situation in that it produces revenues substantially in excess of the seller's cost. GPU contends that the net effect has been that extraordinary costs to the GPU companies and their customers resulting from the accident has resulted in a reduction in the charges to their customers by the selling PJM companies. GPU requests (1) an investigation of same, and (2) that the Commission order that such additional sales be made at a price equal to the seller's cost of supplying such service, namely the incremental production cost plus any other costs reasonably allocable to supplying such service.

Concurrently with the filing of this Complaint, GPU filed a pleading entitled "Motion For Issuance Of Interim Order." Respondents are advised that they have 30 days from the date which they are served by the Commission with the Complaint, to respond both to the Complaint and the pleading entitled "Motion For Insurance Of Interim Order".

All parties who are not Respondents who desire to be heard or protest the Complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 30, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make parties protestants to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10393 Filed 4-4-80; 8:45 am]

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[Docket No. CP80-286]

Michigan Wisconsin Pipe Line Co.; Notice of Application

April 1, 1980

Take notice that on March 18, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-286 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide natural gas transportation service for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and Tennessee have entered into a transportation agreement dated March 11, 1980, which provides for Applicant to take receipt of Tennessee's share of the production from Eugene Island Area Block 327 (Block 327), offshore Louisiana, up to 5,200 Mcf of natural gas per day for the account of Tennessee, to provide transportation onshore for such supplies, and to make redeliveries of equivalent volumes to Tennessee at the tailgate of The Superior Oil Company's Lowry Plant in Cameron Parish, Louisiana, and at an interconnection of the facilities of Applicant and Tennessee at the tailgate of Placid Oil

Company's Patterson Plant in St. Mary's Parish, Louisiana.

Applicant states that redeliveries would be reduced by 1.5 percent of the quantity transported to compensate it for its compressor fuel usage. Applicant further states that the term of the agreement is for fifteen years commencing from the date of initial deliveries. It is stated that, as consideration for providing the transportation service, Tennessee has agreed to pay Applicant a monthly transportation charge equal to the contract demand multiplied by a demand charge of $8.34 per Mcf of natural gas. Applicant further states that the facilities connecting Block 327 to its existing offshore pipeline system have been placed in service are are presently available to provide the transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10394 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER80-66, *et al.*]

New England Power Co.; Order Accepting for Filing and Suspending Proposed Interim Rate as to Brayton Point Coal Conversion Costs and Granting Waivers

Issued: March 31, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On February 20, 1980, New England Power Company (NEPCO) submitted a supplement to its original rate increase filing in Docket Nos. ER80-66 and ER80-67. The supplement contains proposed interim rates that reflect the costs of NEPCO's program to convert its Brayton Point and Salem Harbor generating units from oil to coal-fired capacity. NEPCO submitted this interim rate supplement pursuant to the Commission's rehearing order of February 13, 1980, in these dockets.[1] NEPCO requests waiver of the Commission's notice requirements under § 35.11 of the regulations so that the interim rates could be accepted for filing as of January 1, 1980. NEPCO also requests waiver of § 36.2 (filing fees), § 35.13(b) (cost support) and § 35.17(b) (changes relating to suspended rate schedules) of the regulations. NEPCO urges the Commission to limit any suspension period to one day.

Notice of the supplemental filing was issued on February 27, 1980, with responses due on or before March 18, 1980.

On March 14, 1980, NEPCO's unaffiliated customers submitted a protest, various motions concerning NEPCO's interim rate proposal and a request for oral argument. They acknowledge that NEPCO has converted its Brayton Point units for a short-term coal burn during 1980 and do not object to NEPCO's collection of the related fuel handling costs (estimated by NEPCO to be $2,289,000) upon a demonstration of the actual expenses incurred. The customers request, however, that NEPCO be summnarily directed to exclude similar costs for the Salem Harbor units (estimated by NEPCO as $6,504,200) from the interim rates. This rejection, according to the customers, should be without prejudice to a remedial rate filing when and if these units are converted to coal. The customers assert that rejection is appropriate because NEPCO has not received waivers of the applicable environmental laws and regulations required to burn coal at Salem Harbor. The customers further state that NEPCO has not indicated when such waivers will be obtained.

The customers also object to NEPCO's proposed normalization of the tax benefits associated with the coal conversion construction work in progress (CWIP) included in NEPCO's rate base. They urge that the inclusion of such CWIP should be conditioned by an order requiring the flow-through of the tax savings associated with this construction program. The customers again renew their motion [2] for summary judgment concerning NEPCO's assignment of long-term capital costs associated with coal conversion to customers taking what the customers describe as short-term inferior grades of utility service.

Discussion

As noted in the Commission's February 13, 1980, rehearing order, NEPCO has proposed rates that reflect costs of approximately $17 million for its coal conversion programs. Of this amount about $8.8 million covers short-term fuel handling and operations and maintenance expenses—$2,289,000 for Brayton Point, and $6,504,000 for Salem Harbor. Expenses for 1980 for the long-term conversion program at Brayton Point are estimated to be $2,729,000. An additional $5,365,000 in increased costs is attributable to the inclusion in

[1] By order dated December 31, 1979, the Commission suspended for five months NEPCO's proposed rate increases in Docket Nos. ER80-66 and ER80-67. On January 14, 1980, NEPCO filed an application for rehearing and requested a reduction of the five-month suspension on the ground that otherwise it would be unable to recover approximately 42 percent of its coal conversion expenditures for the 1980 calendar test year. NEPCO characterized the five-month suspension as being unresponsive to a national policy of achieving energy independence. By order issued February 13, 1980, the Commission denied NEPCO's application for rehearing of the suspension period. The Commission found that NEPCO's proposed rates were substantially excessive even assuming that NEPCO could fully recover all of the filed coal conversion costs. The Commission recognized, however, that NEPCO's energy conservation, load management and coal conversion programs would further national energy goals. Accordingly, the Commission stated that NEPCO, if it so chose, could file (subject to a request for waiver of §§ 35.11 and 35.17 of the regulations) a proposed interim rate supplement to recover only the costs directly related to its coal conversion program. The Commission further stated that, upon review of the supplement, it would consider the appropriateness of a one-day suspension of the proposed interim rate which would permit the rate to become effective on January 2, 1980, subject to refund.

[2] *See* the Customers Application for Rehearing filed January 28, 1980.

NEPCO's rate base of coal conversion CWIP relating to Brayton Point.

For purposes of determining an appropriate interim rate, we note that NEPCO has not as yet received the required environmental waivers for Salem Harbor. NEPCO's supplemental filing does not provide any updated information that would indicate that the conversion of Salem Harbor has been approved.[3] We also note that counsel for NEPCO informed the customers by letter dated February 27, 1980, that the waivers had not been obtained.

Accordingly, NEPCO's proposed interim rates with the Salem Harbor coal conversion costs excluded [4] will be accepted for filing, suspended for one day and permitted to become effective, subject to refund, as of January 2, 1980.[5] Conversion costs relating to the Salem Harbor units may not be reflected in an interim rate because NEPCO's customers have as yet not obtained the lower fuel cost benefits that will flow from conversion of the units.[6] Upon notifying the Commission that it has received the necessary environmental waivers and has commenced the burning of coal at Salem Harbor prior to the end of the suspension period, and provided that the benefits of lower costs are passed on to its customers, NEPCO may collect an interim rate subject to refund that reflects the Salem Harbor conversion costs.[7]

The customers have requested that NEPCO be directed to file quarterly revised tariff sheets that reflect actual coal conversion investments. We find little merit to this suggestion because the interim rates will only be collected for the duration of the five month suspension period.

Further, we find that the matters raised by the customers concerning tax normalization and the assignment of long-term coal conversion costs to allegedly short-term inferior grades of utility service are best resolved on the basis of record developed during the evidentiary hearing that shall be held in these dockets. [8] The customer's request for oral argument is denied.

For purposes of considering NEPCO's requests for waiver of the filing fee requirement of our regulations we note that the interim rate is included in NEPCO's original rate request. Because a filing fee has paid based on the original request, waiver of § 36.2 of the regulations is granted. Waiver of § 35.13 is also granted.

The Commission orders:

(A) Waiver of §§ 35.11, 35.13(b), 35.17(b) and 36.2 of the regulations is hereby granted.

(B) NEPCO's proposed interim rates as revised to reflect the exclusion of all Salem Harbor coal conversion costs (see Attachment A) are accepted for filing and suspended for one day, to become effective as of January 2, 1980, subject to refund at the outcome of these proceedings.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

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[3] Previously, NEPCO indicated that the environmental waivers had not been obtained but that the company hoped it could burn coal at Salem Harbor during 1980. *See* the filed testimony of NEPCO's witness John F. Kaslow, page 4.

[4] *See* Attachment A. NEPCO's proposed interim rates have been calculated so as to exclude all costs relating to the proposed conversion of Salem Harbor. The costs that will be evaluated during the hearing in this case to determine the justness and reasonableness of the revised interim rates will be the net conversion costs directly relating to just Brayton Point as already submitted by NEPCO. Any refunds ordered by the Commission concerning portions of the interim rates that may be found to be excessive will be determined solely by reference to the interim rates specified in Attachment A. This refund obligation shall be independent of any determination made covering the rates collected after the suspension period.

[5] Waiver of §§ 35.11 and 35.17(b) of the regulations is hereby granted.

[6] In our rehearing order dated February 13, 1980, we stated (at 4): . . . NEPCO should be permitted prompt and full recovery of its net coal conversion costs so long as its customers obtain the benefits of conversion through fuel savings passed through NEPCO's fuel adjustment clause.

[7] In this event, the costs that will be evaluated during the hearing concerning the portion of the proposed interim rates reflecting Salem Harbor conversion costs will be the net conversion costs directly relating to Salem Harbor as already submitted by NEPCO. *See* footnote 4 *supra.*

[8] *See* Ordering Paragraph (H) of the Commission's order in these dockets, issued December 31, 1979.

Attachment A

Modified to Exclude Salem Harbor March 26, 1980

NEW ENGLAND POWER COMPANY

Determination of Rate W-2 (C) - Coal Conversion
Based on Test Year 1980 (Period II)

(Thousands)

Coal Utilization Costs

1. Coal conversion CWIP (rate base)	$32,425			
2. Return, FIT, FT on above			$5,365	
3. Operation and Maintenance:	Brayton Point	Salem Harbor		
4. Long term conversion	$2,729	$ -		
5. Short term O&M	2,289	~~6,504~~		
6. Total O&M	$5,018	~~$6,504~~	~~$11,522~~	$5,018
7. Total Coal Expense			~~$16,887~~	$10,383
8. Less: Eliminations (unit sales)			(551)	
9. Total Primary coal expense			~~$16,336~~	$9,832

Rate Design

	Resale	Contract Demand
10. Allocation factors (C/S p. 10)	99.74%	3.01%
11. Design revenue (1)	$9,511 ~~$15,803~~	$296 ~~$492~~
12. Billing units (demand)	32,613,303 KW	986,036 KW
13. Incremental demand rate (line 11 ÷ line 12)	$0.29/KW ~~$0.48/KW~~	$0.30/KW ~~$0.50/KW~~
14. Plus: Present rate W-1(S)	$6.79/KW	$8.22/KW
15. Total Demand rate W-2(C)	$7.08/KW ~~$7.27/KW~~	$8.52/KW ~~$8.72/KW~~

(1) C.D. = coal expense (1.9) x 3.01%
Resale = (coal expense (1.9) - C.D. revenue) x 99.74%

[FR Doc. 80-10395 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-C

[Docket No. PV—1453]

Osage Pipe Line Co.; Basic Tentative Valuation

April 3, 1980.

Notice is hereby served that the Federal Energy Regulatory Commission is considering a Basic tentative valuation, effective December 31, 1976, for Osage Pipe Line Company, an interstate oil pipeline, 1437 South Boulder Avenue, Tulsa, Oklahoma 74119.

On or before May 6, 1980, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act may file with the Federal Energy Regulatory Commission, pursuant to rule 70 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.70), an original and three copies of petitions for leave to intervene in this proceeding. The petitioner shall attach to the petition a certificate of service as prescribed in rule 20 (49 CFR 1100.20).

If the petition for leave to intervene is granted, the petitioner is eligible to protest the valuation. Persons designated in Section 19a(h) of the Act may protest without filing a petition.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 80-10396 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-23]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Petition To Amend

April 1, 1980.

Take notice that on March 19, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-23 a petition to amend the order issued March 7, 1977,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the addition of two delivery points, the Lake Boudreaux and East Lake Decade delivery points in Terrebonne Parish, Louisiana, for the receipt of natural gas from Tenneco Oil Company (TOC), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner proposes the establishment of two new points of receipt located at Lake Boudreaux and East Lake Decade, Terrebonne Parish, Louisiana. It is stated that deliveries at Lake Boudreaux would be made by TOC to Columbia Gulf Transmission Company (Columbia Gulf), which volumes Columbia Gulf would then transport to an existing authorized point of interconnection with Petitioner located at Egan, Louisiana. It is further stated that deliveries from East Lake Decade would be made by TOC to Transcontinental Gas Pipe Line Corporation (Transco) for the account of Petitioner, which volumes Transco would then transport and deliver to Petitioner at existing points of interconnection located at Louise, Wharton County, Texas; Crowley, Acadia Parish, and Kinder, Allen Parish, Louisiana.

Petitiner states that approval of the two proposed delivery points would allow TOC to meet existing obligations to deliver natural gas for the account of Air Products and Chemicals Inc. Petitioner further states that no new facilities would be constructed at either of the two proposed delivery points.

Petitioner states that it has entered into an amendment to the existing gas transportation agreement with TOC dated March 11, 1980, pursuant to which TOC agrees to reimburse Petitioner for all charges to Petitioner for the transportation service rendered by Columbia Gulf and Transco. Further, Petitioner proposes to charge for transportation services as follows:

(1) For deliveries by Transco to Petitioner at Louise and delivered to Creole Gas Pipeline Company (Creole) at Yscloskey, Louisiana, 13.76 cents per Mcf;
(2) For deliveries for Transco to Petitioner at Kinder and delivered to Creole at Yscloskey, Louisiana, 3.85 cents per Mcf;
(3) For deliveries from Transco to Petitioner at Crowley and delivered to Creole at Yscloskey, Louisiana, 5.03 cents per Mcf; and,
(4) For deliveries from Columbia Gulf to Petitioner at Egan and delivered to Creole at Yscloskey, Louisiana, 4.96 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-10397 Filed 4-4-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. SA80-8]

Wallace Energy Corp. Petition for Declaratory Order

March 31, 1980.

Take notice that on March 3, 1980, Wallace Energy Corporation (Wallace), First National Bank Building, Suite 3210, Mobile, Alabama 36602, filed a petition for a declaratory order pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure. Wallace petitions the Commission for a determination that Wallace's sales of natural gas to Mobile Gas Service Corporation (Mobile) and Conecuh-Monroe Counties Gas District (Conecuh-Monroe) are not "first sales" under the Natural Gas Policy Act of 1978 (NGPA) and not subject to any maximum lawful prices under the NGPA.

Wallace purchases natural gas from Ciba-Geigy Corporation (Ciba) pursuant to an intrastate contract signed on or about May, 17, 1976. Wallace resells the gas which it purchases from Ciba to Mobile and Conecuh-Monroe pursuant to intrastate contracts dated September 15, 1976, and March 8, 1977, respectively. The parties to these contracts now dispute whether the maximum lawful prices established under the NGPA limit the price which may be charged thereunder. This issue arose because Exxon Company, U.S.A., Ciba's supplier, is subject to the NGPA and has reduced the price for natural gas which it sells to Ciba from the contract price to a maximum lawful price. Ciba, however, has continued to invoice Wallace for the full contract price. Wallace, in turn, continues to invoice Mobile and Conecuh-Monroe for the full contract price.

Mobile has also filed for a petition for declaratory order in Docket No. SA80-8 (notice issued February 8, 1980) requesting that the Commission find sales by Wallace to Mobile to be first sales. Furthermore, several petitions for a declartory order have been filed in Docket No. GP80-68 (notice issued March 12, 1980), requesting a Commission determination regarding the "first sale" status of sales made by Ciba and its subsidiary, Delvan Development Corporation, to Wallace, Mobile and others.

Any person desiring to be heard on or before April 22, 1980, or to make any

protest with reference to said petition should on or before April 22, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, a petition to intervene or a protest in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in Docket No. SA80–8 is not required to file a further petition.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–10398 Filed 4–4–80; 8:45 am]

BILLING CODE 6450–85–M

Office of Intergovernmental Affairs

Local Government Energy Policy Advisory Committee and Subcommittees; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Local Government Energy Policy Advisory Committee.

Date and time: Wednesday, April 23, 1980—9:00 a.m.–5:00 p.m., Thursday, April 24, 1980—9:00 a.m.–5:00 p.m., Friday, April 25, 1980—9:00 a.m.–12:00 noon.

Place: Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. See agenda below for specific time and room number of full committee and subcommittee meetings.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202–252–5187.

Purpose of committee: To advise and make recommendations to the Secretary of Energy on matters relating to Federal energy policies, programs, and legislation so that the Secretary may reach a judgement as to whether national energy policies are reflective of and responsible to the needs of local governments, that components of the Department are coordinating their activities with local governments, where appropriate, and that intergovernmental communication exists with local governments.

Tentative Agenda: Wednesday, April 23, 1980

Full Committee, Room GJ–015

9:00 a.m.—Welcome by Chairman Maynard Jackson, Mayor of Atlanta.

9:20 a.m.—Presentation by Floyd Correa, Office of Intergovernmental Affairs, on the activities of the DOE Intergovernmental Affairs Council.

9:45 a.m.—Subcommittee meetings, Room 6E–069. Subcommittee on Procedural Mechanisms; Subcommittee on Legislation; Subcommittee on Local Energy Planning; Subcommittee on Local Energy Emergency Contingency Planning.

12:00 noon—Lunch.

1:30 p.m.—Subcommittees reconvene, Room 6E–069.

5:00 p.m.—Subcommittees recess until 3:00 p.m., Thursday, April 24, 1980, in Room 6E—069. Public Comment (10 minute rule).

Thursday, April 24, 1980

Full Committee, Room GJ–015

9:00 a.m.—Welcome by Deputy Secretary Sawhill.

9:30 a.m.—Legislative Update by Richard Wright, Director, DOE Office of Legislative Affairs.

11:00 a.m.—Briefing on DOE initiatives in Transportation Conservation by Cathy Frazier, Special Assistant to the Secretary.

11:30 a.m.—Briefing on the LGEPAC budget by Richard Stone, Director, Office of Intergovernmental Affairs.

12:00 noon—Lunch.

1:15 p.m.—Reports from LGEPAC Subcommittee Chairpersons.

2:15 p.m.—Full Committee discussion.

2:50 p.m.—Break.

3:00 p.m.—Subcommittee meetings, room 6E–069. Subcommittee on Procedural Mechanisms; Subcommittee on Legislation; Subcommittee on Local Energy Planning; Subcommittee on Local Energy Emergency Contingency Planning.

5:00 p.m.—Subcommittee sessions conclude. Public Comment (10 minute rule).

Friday, April 25, 1980

Full Committee, Room GJ–015

9:00 a.m.—Reports from Subcommittee Chairpersons.

10:30 a.m.—Full Committee discussion.

11:45 a.m.—Closing remarks by Chairman Maynard Jackson and Richard Stone. Public Comment (10 minute rule).

Public participation: The meetings are open to the public. The Chairpersons of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on March 28, 1980.

Tina C. Hobson,

Advisory Committee Management Officer.

[FR Doc. 80–10377 Filed 4–4–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51048; FRL 1456–6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN, within 5 working days after receipt. This Notice annonces receipt of four PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–41—April 27, 1980, PMN 80–42—April 27, 1980, PMN 80–43—April 27, 1980, PMN 80–44—April 27, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Notice Manager, Paul Wilson, PMN Nos. 80–41, 80–42, 80–43, and 80–44, Telephone 202/426–3980. Mail Address for Notice Manager: Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances complied by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal**

Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemcial identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the date shown under "DATES" for each specific PMN, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51048]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 28, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN 80–41.

Close of Review Period. May 26, 1980.

Manufacturer's Identity. Claimed confidential. However, the submitter states that the firm has a total annual sales over $500,000,000 and intends to produce the new chemical substance in the West South Central region of the United States in a facility whose three digit Standard Industrial Classification Code is 286.

Chemical Identity. Claimed confidential. Generic name provided by submitter: Alpha alkene copolymer with alpha alkene.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Claimed confidential. However, the manufacturer claims that the substance will be used in a contained use, releasing more than 50 kg, but less than 5,000 kg, of the substance to the environment annually. Both chemical and nonchemical employees may be exposed to the substance, but the manufacturer states that there is very low potential for contact and that such exposure would be limited to daily sampling and laboratory analysis activities. The substance will be released to the environment as an industrial waste to landfill and an underground injection disposal well.

Production volume. Claimed confidential.

Test data.

Vapor pressure (20°C.)	0 to 10^{-5}
Density (solid)	<0.9.
Solubility (in water)	$<10^{-6}$.
Melting point	>100°C.
Boiling point/sublimation point	>200°C.
Average molecular weight	>150,000.

Exposure from manufacturing operations.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Manufacture:			
Dermal	12	0.5	365
Disposal:			
Dermal	3	1	10

Exposure at sites controlled by parties other than the manufacturer.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Processing:			
Dermal	3	0.5	50
Processing:			
Dermal	4	1.0	50

Disposal. All disposal from manufacturing processes will be offsite in a commercial underground injection well.

PMN 80–42.

Close of Review Period. May 26, 1980.

Manufacturer's Identity. Claimed confidential. However, the submitter states that the firm has a total annual sales over $500,000,000 and intends to product the new chemical substance in the West South Central region of the United States in a facility whose three digit Standard Industrial Classification Code is 286.

Chemical Identity. Claimed confidential. Generic name provided by submitter: Alpha alkene copolymer with alpha alkene.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Claimed confidential. However, the manufacturer claims that the

substance will be used in a contained use, releasing more than 50 kg, but less than 5,000 kg, of the substance to the environment annually. Both chemical and nonchemical employees may be exposed to the substance, but the manufacturer states that there is very low potential for contact and that such exposure would be limited to daily sampling and laboratory analysis activities. the substance will be released to the environment as an industrial waste to landfill and an underground injection disposal well.

Production volume. Claimed confidential.

Test data

Vapor pressure (20°C.)	0 to 10^{-5}.
Density (solid)	< 0.9.
Solubility (in water)	$< 10^{-6}$.
Melting point	>100°C.
Boiling point/sublimation point	>200°C.
Average molecular weight	>150,000.

Exposure from manufacturing operations.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Manufacture:			
Dermal	12	0.5	365
Disposal:			
Dermal	3	1	10

Exposure at site controlled by parties other than the manufacturer.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Processing:			
Dermal	12	0.5	365
Processing:			
Dermal	3	1	10

Disposal. All disposal from manufacturing processes will be offsite in a commercial underground injection well.

PMN 80-43.

Close of Review Period. May 26, 1980.

Manufacturer's Identity. Claimed confidential. However, the submitter states that the firm has a total annual sales over $500,000,000 and intends to produce the new chemical substance in the West South Central region of the United States in a facility whose three digit Standard Industrial Classification Code is 286.

Chemical Identity. Claimed confidential. Generic name provided by submitter: Alpha alkene copolymer with alpha alkene.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Claimed confidential. However, the manufacturer claims that the substance will be used in a contained use, releasing more than 50 kg, but less than 5,000 kg, of the substance to the environment annually. Both chemical and nonchemical employees may be exposed to the substance, but the manufacturer states that there is very low potential for contact and that such exposure would be limited to daily sampling and laboratory analysis activities. The substance will be released to the environment as an industrial waste to landfill and an underground injection disposal well.

Production volume. Claimed confidential.

Test data.

Vapor pressure (20°C.)	0 to 10^{-5}.
Density (solid)	< 0.9.
Solubility (in water)	$< 10^{-6}$.
Melting point	>100°C.
Boiling point/sublimation point	>200°C.
Average molecular weight	>150,000.

Esposure from manufacturing operations.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Manufacture:			
Dermal	12	0.5	365
Disposal:			
Dermal	3	1	10

Exposure at sites controlled by parties other than the manufacturer.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Processing:			
Dermal	3	0.5	50
Processing			
Dermal	4	1.0	50

Disposal. All disposal from manufacturing processes will be offsite in a commercial underground injection well.

PMN 80-44.

Close of Review Period. May 26, 1980.

Manufacturer's Identity. Claimed confidential. However, the submitter states that the firm has a total annual sales over $500,000,000 and intends to produce the new chemical substance in the West South Central region of the United States in a facility whose three digit Standard Industrial Classification Code is 286.

Chemical Identity. Claimed confidential. Generic name provided by submitter: Alpha alkene copolymer with alpha alkene.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Claimed confidential. However, the manufacturer claims that the substance will be used in a contained use, releasing more than 50 kg, but less than 5,000 kg, of the substance to the environment annually. Both chemical and nonchemical employees may be exposed to the substance, but the manufacturer states that there is very low potential for contact and that such exposure woud be limited to daily sampling and laboratory analysis activities. The substance will be released to the environment as an industrial waste to landfill and an underground injection disposal well.

Production volume. Claimed confidential.

Test data.

Vapor pressure (20°C.)	0 to 10^{-5}.
Density (solid)	< 0.9.
Solubility (in water)	$< 10^{-6}$.
Melting point	>100°C.
Boiling point/sublimation point	>200°C.
Average molecular weight	>150,000.

Exposure from manufacturing operations.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Manufacture:			
Dermal	12	0.5	365
Disposal:			
Dermal	3	1	10

Exposure at sites controlled by parties other than the manufacturer.

Activity and exposure route(s)	Number of persons exposed	Duration of exposure	
		Hr./da.	Da./yr.
Processing:			
Dermal	3	0.5	50
Processing			
Dermal	4	1.0	50

Disposal. All disposal from manufacturing processes will be offsite in a commercial underground injection well.

[FR Doc. 80-10429 Filed 4-4-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51039; FRL 1456-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN, within 5 working days after receipt. This Notice announces receipt of four PMN's and provides a summary of each.

DATES: Written comments by:

PMN 80-33—April 13, 1980.

PMN 80-47—April 17, 1980.

PMN 80-38—April 20, 1980.

PMN 80–39—April 20, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT:

Notice manager	PMN No.	Telephone
Paige Beville	80–33	202–426–8815
George Bagley	80–47	202–426–3936
Ann Radosevich	80–38 80–39	202–426–2601

Mail Address for Notice Managers: Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" Chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d) (1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the date shown under "DATES" for each specific PMN, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51039]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 28, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN 80–33.

Close of Review Period. May 13, 1980.

Manufacturer's Identity. Sherwin-Williams Company, 10909 South Cottage Grove Avenue, Chicago, IL 60628.

Chemical Identity. Claimed confidential. Generic name provided by submittee: Vegetable oil fatty acid ester.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. The manufacturer claims that specific use for the substance is confidential; however, it will be incorporated into an organic coating material.

Production volume. Sherwin-Williams intends to produce approximately 2,000 gallons of solution containing the PMN substance.

Physical/Chemical Properties. Melting point: Undefined. Physical state: Semi-solid at room temperature. Non-volatile content: 100%.

Exposure. Exposure of workers during the manufacture of the polymer and subsequent manufacture of the coating will be negligible since at no time will the polymer be isolated.

Customer exposure will be negligible since this material is incorporated into the organic coating prior to sale to the customer.

Disposal. There will be no waste effluent from the manufacture of this polymer. Some organic solvent will be utilized to clean manufacturing equipment. This solvent will be reclaimed through distillation with any residues disposed of in an approved site.

Health/Environmental Effects. The submitter claims that there is no known data on adverse environmental or health effects related to this polymer. Furthermore, polymers with similar compositions have been used in commerce without adverse effect to health or the environment.

PMN 80–47.

Close of Review Period. May 17, 1980.

Manufacturer's Identity. Claimed confidential. However, the manufacturer has annual sales between $10,000,000 and $99,999,999 and will produce the new material in the East North Central Region.

Chemical Identity. Claimed confidential. Generic name provided: Polymer of Isonanoic, phthalic anhydride, trimethylol propane.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Baking enamels.

Physical/Chemical Properties. Claimed confidential.

Exposure.

Activity and exposure route(s)	Number exposed	Maximum duration		Concentration average peak
		Hr/Da	Da/Yr	
Manufacture:				
Inhalation	2	1	312	1–10 mg/m³.
Processing:				
Inhalation	30	4	312	1–10 mg/m³.
Use:				
Inhalation		8	312	1–10 mg/m³.
Disposal:				
Inhalation	2	3	312	1–10 mg/m³.

Environmental Release/Disposal.

Media	Duration of release		Amount of chemical release
	Hr/da	Da/yr	
Air	8	312	Less than 10 Kg/yr.
Water	8	312	Less than 10–100 Kg/yr.

PMN 80–38.

Close of Review Period. May 20, 1980.

Manufacturer's Identity. Claimed confidential. The submitter has total annual sales of under $1,000,000 and intends to produce the new chemical substance at a plant in the mountain region of the country whose three digit Standard Industrial Classification Code is 289.

Chemical Identity. Claimed confidential. Generic name provided: Alkyl ammonium salt of a halogen oxyacid.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Claimed confidential.

Physical/Chemical Properties.

Chemical form:	Liquid
Vapor pressure (20°C)	0–10 $^{-3}$ torr.
Density	>1.1 gm/cc.
Solubility in water (15°C)	>10 gm/l.
Melting point	>100°C.
Sublimation point	>200°C.

Exposure. Occurrence only accidental. If there is a spill in the packaging operation the one worker would be dermally exposed to the mixture of which the new chemical is about 14 percent by weight.

Environmental Release and Disposal. There are no release points in the process. The only possible release to the environment would come from spills. A small retention pond will be used to contain all wash down from the processing and manufacturing areas.

PMN 80–39.

Close of Review Period. May 20, 1980.

Manufacturer's Identity. Claimed confidential. The submitter has total annual sales of under $1,000,000 and intends to produce the new chemical substance at a plant in the mountain region of the country whose three digit Standard Industrial Classification Code is 289.

Chemical Identity. Claimed confidential. Generic name provided: Nitrogen-base salt of an inorganic oxidizing acid.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the PMN.

Use. Claimed confidential.

Physical/Chemical Properties.

Chemical form:	Liquid
Vapor pressure (20°C)	0–10 $^{-3}$ torr.
Density	>1.1 gm/cc.
Water Solubility (15°C)	>10 gm/l.
Sublimation point	>200°C.
Melting point	>100°C.

Production volume.

Production year	Production (kg/yr)	
	Minimum	Maximum
First year	150,000	200,000
Second year	210,000	300,000
Third year	300,000	500,000

Exposure.

Activity	Exposure route(s)	Maximum No. exposed	Concentration average
Processing	Dermal	1	0–1 ppm.

The only phase of the manufacture and operation at which a worker would be exposed is the packaging operation. All other phases of the manufacture and process are totally enclosed operations.

Disposal. None.

[FR Doc. 80–10430 Filed 4–4–80; 8:45 am]

BILLING CODE 6560–01–M

[PF–180; FRL 1456–7]

Filing of Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals on raw agricultural commodities and animal feeds.

ADDRESS: Written comments and inquiries should be directed to the Designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while a petition is pending before the Agency. The comments are to be identified by the document control number "[PF–180]" and the specific petition number. All written comment filed pursuant to this notice will be available for public inspection in the product manager's office from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency to establish tolerances for residues of pesticide chemicals on certain raw agricultural commodities and animal feeds in accordance with the Federal Food, Drug, and Cosmetic Act. the analytical method for determining residues, where required, is given in each specific petition.

PP 9F 2159. Elanco Products Co., PO Box 1750, Indianaplis, IN 46206. Proposes that 40 CFR 180.207 be amended by establishing a tolerance for residues of the herbicide and plant regulator trifluralin (alpha, alpha, alpha-trifluoro-2,6-dinitro-*N,N*-dipropyl-*p*-toluidine) in or on the raw agricultural commodity asparagus at 0.05 part per million (ppm). The proposed analytical method for determining residues is gas-liquid with thin layer chromatography.

PM–23, Ms. Willa Garner, Rm. E–351, 202/755–1397.

PP OF2303. Union Carbide, Brookside Ave., Ambler, PA 19002. Proposes that 40 CFR 180.325 be amended by establishing tolerances for residues of the plant regulator 2-(*m*-chloro-phenoxy)-propionic acid in or on the raw agricultural commodities pineapple (fresh fruit) at 0.3 ppm; pineapplie forage and fodder at 0.2 ppm; kidneys of cattle, hogs, horse, goats, and sheep at 0.5 ppm; and meat (except kidneys, fat, and meat byproducts) of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography with microcoulometric detector.

PM–25, Mr. Robert Taylor, Rm. E–301, 202/755–2196.

FAP OF 5248. Union Carbide. Proposes that 21 CFR 561.95 be amended by establishing a tolerance for residues of the plant regulator 2-(*m*-chloro-

phenoxy)-propionic acid in or on the commodity pineapple bran at 0.3 ppm.

PM–25.

PP OF2329. Monsanto Co., 1101 17th St., Washington, DC 20036. Proposes that 40 CFR 180.364 be amended by establishing tolerances for the combined residues of the herbicide glyphosate [*N*-(phosphonomethyl)glycine] and its metabolite aminomethyl-phosphonic acid in or on the raw agricultural commodities peanut at 0.1 ppm, peanut hay and forage at 0.3 ppm, and peanut shells at 0.4 ppm. The proposed analytical method for determining residues is gas chromatography with a phosphorus-specific flame photometric detector.

PM–25.

(Secs. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)

Dated: March 31, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-10431 Filed 4-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1452-8]

Petition To Remove 1,1,1-Trichloroethane and Methylene Chloride From the Toxic Pollutant List; Final Action

AGENCY: United States Environmental Protection Agency.

ACTION: Denial of a petition to remove 1,1,1-trichloroethane and methylene chloride from the toxic pollutants list under Section 307(a)(1) of the Clean Water Act, as amended, 33 U.S.C. 1317(a).

SUMMARY: This action is a final denial of a petition from Dow Chemical, U.S.A. to remove 1,1,1-trichloroethane and methylene chloride from the toxic pollutant list. It addresses public comments on the proposal to deny the Dow petition, published in the Federal Register on June 15, 1979 (44 FR 34685) and affirms that 1,1,1-trichloroethane and methylene chloride be retained on the toxic pollutant list.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Krivak, Acting Director, Criteria and Standards Division (WH–585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460 (202–755–0100).

SUPPLEMENTARY INFORMATION: On August 2, 1978, Dow Chemical, U.S.A. petitioned EPA to remove 1,1,1-trichloroethane and methylene chloride from the toxic pollutant list under Section 307(a) of the Clean Water Act. EPA reviewed information supplied by Dow in support of its petition, as well as other available information, and proposed that 1,1,1-trichloroethane and methylene chloride be retained on the list. A request for public comment on the proposed denial of the petition was published in the **Federal Register**, June 15, 1979 (44 FR 34685). Dow Chemical, U.S.A. and the Air Transport Association of America submitted comments.

Background

The Clean Water Act of 1977 (the Act) directed the Administrator to publish as toxic pollutants those substances listed in table 1 of Committee Print Number 95–30 of the Committee on Public Works and Transportation of the House of Representatives. Substances on this list were classified as toxic pollutants pursuant to Section 307(a) on January 31, 1978 (43 FR 4109). The list contained as item 15, Chlorinated ethanes (including 1,2-dichloroethane, 1,1,1-trichloroethane and hexachlorane): and as item 38, "Halomethanes (other than those listed elsewhere; includes methylene chloride, methyl chloride, methyl bromide, bromoform, dichlorobromomethane, dichlorodifluoromethane)."

The Act also authorizes the Administrator to add to or remove from such list any pollutant. In revising the toxic pollutant list, the Administrator is directed to take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the pollutant on such organisms.

Action on Petition

The EPA concludes that the petition from Dow to delist 1,1,1-trichloroethane and methylene chloride must be denied because data available to EPA indicate that both chemicals meet several criteria for listing as toxic pollutants under § 307(a)(1) of the Clean Water Act.

Toxicity

Experimental evidence suggests that 1,1,1-trichloroethane is a potential carcinogen. It is mutagenic, has carcinogenic-transforming activity and has a molecular structure similar to known carcinogens. 1,1,1-Trichloroethane is presently being investigated in long-term animal bioassay for carcinogenicity.

Methylene chloride is mutagenic and is structurally similar to known carcinogens. It is presently being investigated in long-term animal bioassay for carcinogenicity.

Degradability

1,1,1-Trichloroethane can be hydrolyzed to 1,1,-dichloroethylene (vinylidene chloride), a known animal carcinogen.

Usual and Potential Presence in Water

Data available to the Agency indicate that all 1,1,1-trichloroethane producers have direct discharges to surface waters. 1,1,1-Trichloroethane is produced in excess of a half-billion pounds annually (with projected increases in production) and data indicate that it has been detected in industrial effluents, surface waters and drinking water.

Methylene chloride has been detected in industrial effluents, surface waters and 8 to 14 percent of United States finished drinking waters. It is produced and used in large volume (in excess of a half-billion pounds annually) and its production is expected to increase in the near future.

Response to Comments

I. Comments from the Dow Chemical Company, U.S.A.

General

Dow asserted that EPA has no objective criteria on which to justify inclusion of a toxic substance on the Section 307(a) list.

The legislative history of the Clean Water Act of 1977 indicates Congress' clear intent that the Administrator have "the widest latitude" in designating pollutants as toxic and that "no pollutant listed in House Report 95–30 should be deleted without a clear finding that delisting will not compromise adequate control over the discharge of toxic pollutants (Cong. Rec. daily ed. S. 19649)."

The Clean Water Act listed several factors which the Administrator should consider in making a decision to add or remove chemicals from the list. It is not necessary that a pollutant meet any particular criteria within these categories in order to be listed under Section 307(a). For instance, a pollutant which demonstrates significant toxicity but is not persistent (or conversely) may be listed under Section 307(a). In the March 27, 1979 **Federal Register** (44 FR 18279), EPA published a list of guidance factors for petitioners to address when supplying information to support requests to revise the 307(a) list of toxic pollutants. These factors are based on the criteria specified in the Act, and the Agency considers them in making a decision to revise the list.

1,1,1-Trichloroethane

(1) Dow asserted that 1,1,1-trichloroethane does not meet the EPA criterion for persistence and should not be listed as a toxic pollutant because its rapid volatilization and low hydrolysis rate provide little chance for the build-up of 1,1,1-trichloroethane or its breakdown products in water. Dow compared the volatility half-life calculated by Dilling, 1977 for 1,1,1-trichlorethane (6 hrs) to those calculated by Mackay and Leiononer, 1975 for the persistent chemicals, DDT (73.9 hrs) and dieldrin (12,940 hours) and concluded that 1,1,1-trichlorethane is not persistent in the aquatic environment because it volatilizes from water at a faster rate than the selected persistent chemicals. To argue the non-persistence of 1,1,1-trichloroethane solely on the basis of its comparative volatility is scientifically unsound as evidenced by additional data from the work of Mackay and Leiononer, 1975, which showed volatility half-lives for polychlorinated biphenyls (PCBs), a group of aquatically-persistent chemicals, to be of the same order of magnitude as that of 1,1,1-trichloroethane. Obviously there are additional processes which influence persistence such as binding and degradation.

Additional data are required to assess the significance of the 6 hour half-life of 1,1,1-trichloroethane and any threat to the aquatic environment. These data include the quantities of this chemical discharged in industrial effluents; levels in surface water, and data pertaining to the onset, nature and extent of effects of 1,1,1-trichloroethane in aquatic organisms. Data available to the Agency indicate that all 1,1,1-trichloroethane producers have direct discharges to surface waters and, at present, levels discharged by most industries are unknown (U.S. EPA, 1979). 1,1,1-trichloroethane is produced in excess of a half-billion pounds annually. Limited data indicate its presence in industrial effluents, surface waters, and drinking water (U.S. EPA, 1979, U.S. EPA, 1977; Kopfler et al, 1977.). A concentration of 1,1,1-trichloroethane as high as 7,100 ug/1 has been detected in one industrial effluent (U.S. EPA, 1979). More extensive monitoring of effluents, surface waters, and drinking water is needed.

(2) Dow objected to the Agency's use of mouse data as the basis for asserting that vinylidene chloride, a hydrolytic product of 1,1,1-trichloroethane is an animal carcinogen. The Agency cited a study by Maltoni (1977) which showed that vinylidene chloride induced kidney and mammary adenocarcinomas in male and female mice, respectively. Dow argued that the mouse is a sensitive species because there are other studies which show vinylidene chloride to be noncarcinogenic to the Sprague-Dawley and CD rat, the Chinese hamster and the CD–1 mouse (Humiston et al., 1978; Maltoni, 1977, Maltoni et al., 1977; Viola, 1977, Hong et al., 1979). Dow further asserted that the kidney tumors in Swiss mice exposed to vinylidene chloride were formed by epigenetic mechanisms.

The Agency recognizes that species and strains of animals vary in their susceptibility to carcinogens, as do humans. The failure of vinylidene chloride to induce cancers in several other tested species and strains is not an assurance that it poses no carcinogenic threat. Since there are no data which show that the tumors in Swiss mice were not causally related to vinylidene chloride, the Agency considers this positive result evidence that vinylidene chloride is an animal carcinogen. The mutagenicity of vinylidene chloride in *S. typhimurium* strains TA 1530 and TA 100 and *E. Coli* K–12 is evidence that it acts via genetic mechanisms.

(3) Dow challenged the investigator's (National Cancer Institute, (NCI) decision that conclusions could not be made about the carcinogenicity of 1,1,1-trichloroethane because of high mortality among control and treated mice and rats used in a 1977 NCI study. In its comments to the Agency's proposed denial, Dow presented the survival rates of male and female mice in the 1977 NCI study and concluded that the survival rates were high enough in the low dose groups to preclude discounting the significance of the lack of a tumorgenic response in the mouse. Dow lists the following survival rates among mice at the end of the study: 10 percent survival in control males; 30 percent in males treated at low dose; 55 percent in control females and 46 percent in treated females. When the Agency multiplied the number of animals per group by these percentages, the survivors were 2 control males, 15 treated males, 11 control females and 23 treated females at the low dose. Upon further investigation of the NCI data, the Agency observed that there were no survivors among control or treated male rats and 3, 2, and 1 animal survived in control, low and high dose treated female rats, respectively. The NCI is presently retesting 1,1,1-trichloroethane.

(4) Dow challenged the Agency's use of positive findings in the rat embryo cell transformation assay and *Salmonella typhimurium* mutagenesis assay as suggestive evidence of the carcinogenic potential of 1,1,1-trichloroethane. Dow asserted that scientific opinion is that short-term tests for chemical carcinogens are not viewed as evidence of the potential carcinogenicity of a chemical in laboratory animals, but rather as a screening tool for priority setting in conducting long-term animal studies. Dow further questioned the reliability of the transformation assay (based on a personally communicated message that positive results with methylene chloride could not be reproduced in this system) and cited a preliminary Dow study, which Dow asserts showed two other systems (yeast cell gene mutation and host-mediated assay) in which 1,1,1-trichloroethane was not mutagenic. Dow supplied no data to disprove the positive results observed with 1,1,1-trichloroethane specifically in the rat embryo cell transformation assay.

The Agency considers the positive results in *S. typhimurium* TA 1530, TA100, *E. coli* K–12 and the rat embryo transformation assay suggestive evidence of the carcinogenic potential of 1,1,1-trichloroethane. Epidemiology and animal bioassay data constitute definitive evidence of carcinogenicity. This is the position taken by members of the Interagency Regulatory Laison Group (IRLG) in its report entitled "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks" (44 FR 39870, July 6, 1979) and the Regulatory Council in its statement on "Regulation of Chemical Carcinogens" (44 FR 60038, October 17, 1979).

Additional suggestive evidence of the carcinogencity of 1,1,1,-trichloroethane is its structural similarity to chloroform and carbon tetrachloride. Four chlorinated ethanes, which have been tested by the NCI and determined to be animal carcinogens, are 1,2-dichloroethane, 1,1,2-trichloroethane, 1,1,2,2-tetrachloroethane and hexachloroethane.

Methylene Chloride

(1) Dow objected to a summary statement the Agency made about the toxicity of methylene chloride, i.e., "evidence exists for its carcinogencity in at least two animal species." The Agency intended to state that *suggestive* evidence of the carcinogenicity of methylene chloride exists in at least two animal species. The Agency's statement was based on: (a) a study by Theiss (1977), in which methylene chloride produced increases in the number of pulmonary adenomas per mouse in strain A mice; these increases were not statistically significant, however, when compared to the high tumor frequency in untreated controls; (b) a Dow chemical study by Farber (1978), which showed

that methylene chloride produced a significant increase in benign mammary tumors in both male and female rats; (c) a study by Simmon et al. (1977) in which methylene chloride induced mutations in *Salmonella typhimurium* TA 100; and (d) a study by Price et al. (1978) in which Fischer rat embryo cells (F 1706), transformed by methylene chloride, produced fibrosarcomas when injected into rats.

(2) Dow pointed out several deficiencies in the data used by the Agency to suggest potential carcinogenic effects of methylene chloride. Dow stated that the Theiss data (1977) showed no dose-related mortality and produced an inverse dose-related increase in the number of lung tumors per mouse. The Agency acknowledges these deficiencies but maintains that the results, though deficient, raise questions about the carcinogenicity of methylene chloride and demonstrate a need for further investigation.

Dow pointed out that the study by Simmon et al. (1977) indicated mutagenic response to methylene chloride in a non-activated gas-phase system and needs further research to support a scientifically sound interpretation of the data.

The Agency considers positive results in the absence of metabolic activation appropriate evidence of the mutagenicity of methylene chloride although information supplied by metabolic activation on the mutagenicity of metabolites would also be useful. The results of Simmon et al. (1977) have been confirmed by Jongen et al. (1978) in *Salmonella* TA98 and TA 100. Microsomal activation of methylene chloride was not essential for mutagenic activity although a slight enhancement in the mutation rate was obtained with rat liver homogenate (Jongen et al., 1978).

Dow questioned the reliability of the rat embryo cell transformation assay based on a personally-communicated message from A. D. Little, Inc. that it was unable to reproduce the positive response observed with methylene chloride by Price et al. (1978). The Agency has no way of evaluating the A. D. Little data or comparing it to that published by Price et al. (1978).

The Agency contends that the mutagenic activity dsplayed by methylene chloride in *S. typhimurium* and results in the two animal studies raise questions about the nature of its chronic effects and suggest a need for more extensive testing of this chemical in long-term animal bioassay for carcinogenicity. A 2-year carcinogenesis bioassay with rats and mice is underway at the NCI. The report of this study is scheduled to be released in September, 1981.

II. Comments from the Air Transport Association of America

The Air Transport Association (ATA) of America did not comment on the technical aspects of the Dow petition or the Agency's proposed denial but expressed concern that severe restrictions on the use of 1,1,1,-trichloroethane and methylene chloride would be economically burdensome to the airline industry and could result in an adverse safety impact.

It is because of its concern about potential adverse impacts on health, that the Agency proposed retention of 1,1,1,-trichloroethane and methylene chloride on the list of toxic pollutants. Listing chemicals as toxicants, under Section 307(a)(1) is not intended to impose restrictions on the use of a chemical. The purpose of listing is to control the discharge of such chemicals into the aquatic environment through the implementation of appropriate effluent limitations or standards.

Dated: March 31, 1980.

Douglas M. Costle,

Administrator.

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[FR Doc. 80-10428 Filed 4-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1456-3]

Science Advisory Board, Toxic Substances Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Toxic Substances Subcommittee of the Science Advisory Board will be held on April 24–25, 1980. The meeting will begin at 9 AM at the HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. in Room 4131–37.

The Subcommittee will be meeting for the ninth time in order to review the roles of the various segments of the Office of Pesticides and Toxic Substances in the implementation of different sections of the Toxic Substances Control Act, accomplishments to date and implementation schedule for 1980–81.

The meeting will be open to the public. Any member of the public who wishes to attend should pre-register by contacting Dr. Helene N. Guttman, Deputy Staff Director, Science Advisory Board (A–101M), U.S. Environmental

Protection Agency, Washington, D.C. 20460, (202) 472–9444.

Richard M. Dowd,

Staff Director, Science Advisory Board.

March 28, 1980.

[FR Doc. 80–10427 Filed 4–4–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1457–5]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104) U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of March 24, 1980 to March 28, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from April 4, 1980 and will end on May 19, 1980. The 30-day review period for final EIS's as calculated from April 4, 1980 will end on May 5, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street, NW, Suite 316, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of March 24, 1980 to March 28, 1980 the 30-day review period will be calculated from April 4, 1980. The review period will end on May 5, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of March 24, 1980 to March 28, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Fedeal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal Agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: April 2, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

Appendix I—EIS'S Filed With EPA During the Week of March 24 Through 28, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Final

1980 Cooperative Gypsy Moth Suppression, Regulatory, March 28: Proposed is the 1980 Cooperative Gypsy Moth Suppression and Regulatory Program and activities. The suppression program will affect 143,000 acres in New Jersey, New York, and Pennsylvania. The regulatory program will afffect 78,955 acres in New Jersey, Illinois, New York, New England States Pennsylvania, Michigan, Ohio and Virginia. The alternatives consider finanical assistance for: (1) Chemical insecticide treatment, (2) biological insecticide treatment, (3) integrated pest management, and (4) no action. (FES–80–01). Comments made by: EPA, USDA, HEW, DOI, State Agencies, Groups, Individuals and Businesses (EIS Order No. 800222.)

Animal Plant and Health Inspection Service

Draft Supplement

Rangeland Grasshopper Cooperative Management Program, Several, March 28: Proposed is the Rangeland Grasshopper Cooperative Management Program. The program involves the aerial application of insecticides, either malathion or carbaryl. The alternatives considered are: No control program, biological control, cultural and mechanical control, intergrated pest management, and eradication. This statement supplements draft EIS, No. 791277, filed 12–28–78 (USDA–APHIS–ADM–79–1–D) (EIS Order No. 800229.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C., 20314, (202) 272–0121.

Draft

Marshall Island Docks, Pacific Islands, U.S. Territory, March 25: Proposed is the Marshall Island Docks project located in the US Trust Territory of the Pacific Islands. The project consists of the construction of new piers on 14 islands and upgrading and extension of the existing dock on one island. The piers are pile-supported, reinforced concrete structures requiring no dredging or fill. The alternatives considered were: (1) No action, (2) site locations, and (3) design (Pacific Ocean Division) (EIS ORDER No. 800215.)

Final

Lake of the Ozarks 161 kV Transmission, Permit, Camden County, Mo., March 25: Proposed is the issuance of a permit for the construction and installation of a 161kv, three phase, five-wire overhead electric transmission line across the Osage River and the Niangue River on the Lake of the Ozarks in Camden County, Missouri. The purpose of the line is threefold: (1) To provide a source of energy for present and future demands, (2) to provide loop integrity for both the Sunrise Beach and Lakeview Substations to insure continued operation in the case of a failure, and (3) to meet long-range loop requirements of connecting the Southern and Northern Missouri networks (Kansas City District).

Comments made by: USDA, DOC, HUD, DOI, DOT, EPA, DOE, FERC, State and Local Agenies, businesses and Individuals (EIS Order No. 800213.)

Final

Whiteoak Creek Local Flood Protection, Morgan County, Tenn., March 27: Proposed is a local flood protection project for whiteoak Creek within Sunbright, Morgan County, Tennessee. The plan would consist of widening the creek to 60 feet along a 0.7 mile reach. Selective riprapping of the stream bank would be provided where necessary. The alternatives consider: (1) Clearing and snagging, (2) a reservoir, (3) flood plain management, (4) flood insurance, (5) flood warning system, (6) flood proofing, (7) relocation, and (8) no action (Nashville District). Comments made by: DOI, TVA, HUD, USDA, HEW, DOT, SBA, DOC, EPA, COE, State and Local Agencies, Individuals (EIS Order No. 800218.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

National Oceanic and Atmospheric Administration

Draft

Connecticut Coastal Mgmt. Program, CZM, Connecticut, March 28: Proposed is a coastal management program for the State of Connecticut. The major components of the program include: (1) Management of coastal land and water resources, (2) management of coastal uses, and (3) management of governmental programs that affect the coastal area. Other features will include: (1) Implementation of special management techniques for certain areas; and (2) implementation of special planning procedures in the areas of shoreline erosion, shore front access and protection, energy facilities, and dredging and disposal of dredged materials. (EIS Order No. 800224.)

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, D.C. 20585, (202) 252–4600.

Bonneville Power Administration

Final

Boardman Coal Plant and Associated Transmission, Morrow County, Oreg., March 28: Proposed is the transmission of power over a BPA system, from the Boardman coal-fired generating plant in Morrow County, Oregon. The power would be wheeled from a non-Federal plant over the BPA system to the point of use by utilities owning, or purchasing output of, such plant. The alternatives considered include: No action, site locations for the plant and transmission lines, and purchase of power from other sources. This EIS is an adopted REA final EIS, No. 780148, filed 2–13–78. (DOE/EIS) (USDA–REA–EIS–77–4F). Comments made by: EPA, DOI, USDA, DOE, State agencies. (EIS Order No. 800221.)

Final Supplement

Okanogan Area Service Facility, Location (FS–2), Okanogan and Douglas Counties, Wash., March 28: This statement supplements the final EIS on the BPA 1976 fiscal year program, No. 750349, filed 3–14–75. Proposed are facility locations for transmission facilities to serve the Okanogan Valley Area of Okanogan and Douglas Counties, Washington. The preferred alternative extends for 63 miles from the Chief Joseph Substation in Okanogan County to the Tonasket Substation in Douglas County. (DOE/EIS–0048–FS–1). Comments made by: DOE, DOI, State agencies, businesses. (EIS Order No. 800220.)

ENVIRONMENTAL PROTECTION AGENCY

Region I

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., Room 2203, Boston, Massachusetts 02203, (617) 223–4635.

Final Supplement

Scarborough Wastewater Collection and Treatment, Cumberland County, Maine, March 25: Proposed are wastewater collection and treatment facilities for the City of Scarborough, Cumberland County, Maine. This supplement discusses another site as the preferred alternative. This site is located on Black Point Road (Spurwick Road) opposite Massacre Pond. The site would encompass 17.3 acres. Also being considered is the enlargement of this site to allow both treatment and on-site disposal by means of land application. This statement supplements final EIS, No. 770551, filed 5–3–77. (EIS Order No. 800219.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755–6300.

Draft

Sabal Point Villages PUD, Mortgage Insurance, Seminole County, Fla., March 28: Proposed is the issuance of HUD home mortgage insurance for the Sabal Point Villages planned unit development in Seminole County, Florida. The development would encompass 760 acres of land. Presently 421 homesites have been built, 898 homesites are in various planning stages, and a 150-acre 18-hole golf course is under construction. For the remaining 1904 homesites mortgage insurance is requested. (EIS Order No. 800227.)

Echo Fams Subdivision, Wilmington, New Hanover County, N.C., March 25: Proposed is the issuance of HUD home mortgage insurance for the Echo Farms Subdivision, located in Wilmington, New Hanover County, North Carolina. The development would contain 522 single-family detached houses and 120 townhouses. The development would also contain a golf course, tennis courts, a clubhouse and pool. (HUD–RO4–EIS–78–22). (EIS Order No. 800214.)

Homestead Planning Development, Stutsman County, N. Dak., March 25: Proposed is the issuance of HUD home mortgage insurance for the Homestead planned development in Stutsman County, North Dakota. The development would include 540 single-family and multifamily units on 120 acres. Insurance has been requested for 50 units to be located on an 18 acre tract to be known as Homestead III (HUD–RO8–EIS–80–VD). (EIS Order No. 800216.)

Final

Country Club West and Westmoor West, Greeley Weld, County, Colo., March 25: Proposed is the issuance of HUD home mortgage insurance for the Country Club West and Westmoor West planned developments in the City of Greeley, Weld County, Colorado. The developments encompass 305.15 acres and will contain 765 lots for single and multi-family housing units (HUD–RO8–EIS–79XXD). Comments made by: DOI, COE, DOT, EPA, State and local agencies. (EIS Order No. 800212.)

Burke Center, Mortgage Insurance, Fairfax County, Va., March 28: Proposed is the issuance of HUD home mortgage insurance for the Burke Center located in Fairfax County, Virginia. The uncompleted portion covers the development of approximately 2,945 units over the next 3 years. At completion of the development, it will contain 300 acres of park and open space, 123 acres of commercial and industrial uses and 1,026 acres of residential uses and streets. Comments made by: USDA, EPA, FERC, DOT, COE, State and local agencies. (EIS Order No. 800228.)

Draft Supplement

Interstate Land Sales Registration, Regulations, Regulatory, March 28: This statement supplements final EIS No. 790373, filed 4–10–79. Proposed are amendments to the Interstate Land Sales Full Disclosure Act. The alternatives considered include: (1) Substantive regulation, (2) land use planning, (3) no disclosure, and (4) improved disclosure. (EIS Order No. 800223.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C 20240, (202) 243–3891.

Bureau of Land Management

Draft

Royal Gorge Domestic Livestock Grazing Mgmt., several counties, Colorado, March 28: Proposed is a livestock grazing management plan for the Royal Gorge Resource Area in the Counties of Chaffee, Custer, El Paso, Fremont, Huerfano, Lake, Park, and Teller, Colorado. This encompasses approximately 589,675 acres of public land. Components of the proposed action are: (1) Intensive grazing management on 379,380 acres, (2) less intensive management on 189,000 acres, (3) elimination of grazing on 20, 395 acres, and (4) completion of vegetation manipulation projects and range facilities. The alternatives consider: no action, elimination of grazing, management constraints, and nonintensive grazing. (DES–80–17). (EIS Order No. 800226.)

National Park Service

Draft Supplement

Fire Island National Seashore, Suffolk County, N.Y., March 26: Proposed is the designation of approximately 1,330 acres of land on Fire Island National Seashore as part of the National Wilderness Preservation System. Approximately another 17 acres presently qualify as wilderness but will automatically become wilderness when incompatible uses and facilities are eliminated. Approximately 113 acres are identified as exclusions either because they are not federally owned or because they are needed to fulfill other purposes of the seashore. This statement supplements final EIS No. 771472, filed 12–1–77 (DES–80–16). (EIS Order No. 800217.)

EIS' Filed During the Week of Mar. 24 Through Mar. 28, 1980

[Statement title Index—By State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Colorado	Several	Draft	Royal Gorge Domestic Livestock Grazing Mgmt	800226	Mar. 28, 1980	DOI
	Weld	Final	Country Club West and Westmoor West, Greeley	800212	Mar. 25, 1980	HUD
Connecticut		Draft	Connecticut Coastal Mgmt. Program, CZM	800224	Mar. 28, 1980	DOC
Florida	Seminole	Draft	Sabal Point Villages PUD, Mortgage Insurance	800227	Mar. 28, 1980	HUD
Maine	Cumberland	Supple	Scarborough Wastewater Collection and Treatment (FS).	800219	Mar. 25, 1980	EPA
Missouri	Camden	Final	Lake of the Ozarks, 161 kV Transmission, Permit	800213	Mar. 25, 1980	COE
New York	Suffolk	Supple	Fire Island National Seashore (DS)	800217	Mar. 26, 1980	DOI
North Carolina	New Hanover	Draft	Echo Farms Subdivision, Wilmington	800214	Mar. 25, 1980	HUD
North Dakota	Stutsman	Draft	Homestead Planned Development	800216	Mar. 25, 1980	HUD
Oregon	Morrow	Final	Boardman Coal Plant and Associated Transmission	800221	Mar. 28, 1980	DOE
Regulatory		Final	1980 Cooperative Gypsy Moth Suppression	800222	Mar. 28, 1980	USDA
		Supple	Interstate Land Sales Registration, Regulations (DS).	800223	Mar. 28, 1980	HUD
Several		Supple	Rangeland Grasshopper Cooperative Management (DS).	800229	Mar. 28, 1980	USDA
Tennessee	Morgan	Final	Whiteoak Creek Local Flood Protection	800218	Mar. 27, 1980	COE
U.S. Territory		Draft	Marshall Island Docks, Pacific Islands	800215	Mar. 25, 1980	COE
Virginia	Fairfax	Final	Burke Center, Mortgage Insurance	800228	Mar. 28, 1980	HUD
Washington	Douglas	Supple	Okanogan Area Service Facility, Location (FS)	800220	Mar. 28, 1980	DOE
	Okanogan	Supple	Okanogan Area Service Facility, Location (FS)	800220	Mar. 28, 1980	DOE

Appendix II.—*Extension/Waiver of Review Periods on EIS' Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/ extension	Date review terminates
DEPARTMENT OF INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.	Royal Gorge Resource Area, Livestock Grazing Management Program, Colorado.	Draft Supp. 800226	Apr. 7, 1980 (see app. I).	Extension	May 27, 1980.
U.S. DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.	Rangeland Grasshopper Cooperative Management Program.	Draft Supp. 800229	Apr. 7, 1980 (see app. I).	Waiver	May 2, 1980.

Appendix III.—*EIS' Filed With EPA Which Have Been Officially Withdrawn By the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS' Previously Filed With EPA*

Federal Agency Contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.	Amplification of Extent of Impacts of the EIS for Duralde des Cannes Watershed, Evangeline Parish, Louisiana.	Mar. 28, 1980	800225

Appendix VI.—*Official Correction*

Fedral agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.	Transportation Efficiency Act of 1980.	Draft 800163	Mar. 14, 1980	In the FEDERAL REGISTER dated Mar. 24, 1980, EPA published a correction which stated that the status of this EIS had been published incorrectly as a draft and that the correct status was final. It has been determined by the EPA and DOT that the EIS will stand as a draft EIS.

[FR Doc. 80–10420 Filed 4–4–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1457–2; 80P–104]

Colorado Department of Agriculture; Amendment to Specific Exemption To Use Paraquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an amendment to a specific exemption issued to the Colorado Department of Agriculture (hereafter referred to as the "Applicant"), under the Federal Insecticide, Fungicide, and Rodenticide Act, to use paraquat as a desiccant on faba beans in the San Luis Valley of Colorado. The specific exemption permits the use of the treated faba beans as human food.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Rm. 124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 426–0223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 22, 1979 (44 FR 60814), EPA published a notice which announced the granting of a specific exemption to the Applicant to use paraquat as a desiccant on faba beans that were to be used only as animal feed. Since then, the Applicant has requested that the treated faba beans be permitted for use as human food.

EPA had approved the use of treated faba beans for human food in connection with the original application since residue levels of 0.4 part per million (ppm) paraquat in or on faba beans were judged to be adequate to protect the public health, and that level was not expected to be exceeded by the proposed use. The limitation that the treated beans could be used for animal feed only was included because the Applicant had indicated that was the intended use.

After reviewing the application and other available information, EPA has determined that the requested amendment would not result in significant environmental risks. Accordingly, EPA has amended the specific exemption for the use of paraquat as a desiccant on faba beans in the San Luis Valley of Colorado by substituting the following for item 7 as found on p. 60814 of the **Federal Register** of Monday, October 22, 1979:

7. Faba beans with residues of paraquat not exceeding 0.4 ppm as a result of use in accordance with the specific exemption may be used as human food or animal feed. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare has been advised of this action. All other terms and conditions of the specific exemption granted on September 13, 1979 still apply.

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: March 28, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–10434 Filed 4–4–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1456–8; OPP—180424]

Michigan Department of Agriculture; Issuance of Specific Exemption To Use Permethrin To Control Cutworms and Grape Flea Beetle on Grapes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") to use permethrin to control cutworms and the grape flea beetle on 5,000 acres of grapes in Michigan under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on June 15, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Room: E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–426–0223.

It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, cutworms (spotted cutworm, brown cutworm, spotted-sided cutworm, darksided cutworm, and *Amathes smithii*) have become serious pests of grapes since the loss of the chlorinated hydrocarbons for soil treatment. Cutworms adversely affect crop yield by damaging the young developing buds early in the spring. Flea beetle damage occurs at the same time and is very diffcult to differentiate. While carbaryl is registered for this use, it is temperature dependent. During the pre-bloom stage of grape development, nocturnal temperature may drop to 30–

40 degrees. According to the Applicant, carbaryl is not effective in this temperature range, but will provide adequate control for the balance of the year. Permethrin has traditionally shown high biological activity against lepidoptera.

The Applicant proposed to use the product Ambush, which contains the active ingredient (a.i.) permethrin, in the counties of Allegan, Berrien, Cass, Grand Traverse, Kalamazoo, Leelanau, and Van Buren. Although cutworm damage reportedly affects fifty percent of Michigan's 15,800 acres of grapes, a maximum of 5,000 acres are expected to require treatment. The Applicant estimates the gross loss to the grape industry without adequate control of these pests could be as high as $20 million.

EPA has determined that residues of permethrin in or on grapes and raisins are not likely to exceed 0.5 part per million (ppm) and 2 ppm respectively from this use. These levels have been judged adequate to protect the public health. The proposed use is not expected to have an unreasonable adverse effect on the environment.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of cutworm and grape flea bettle have occurred or are likely to occur; (b) there are no effective pesticides currently registered and available for control of these pests in Michigan; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the cutworm and grape flea beetle are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 15, 1980, in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Up to two applications of the product Ambush (EPA Reg. No. 10182–18) may be made at a maximum rate of 0.2 pound a.i. per acre in 200 gallons of water. If an unregistered label is used, it must contain the identifical applicable precautions and restrictions which appear on the registered label;

2. Application will be limited to ground equipment;

3. A maximum of 5,000 acres may be treated in the counties named above;

4. This specific exemption authorizes the application of a maximum of 2,000 pounds of permethrin;

5. All applications will be made by State-certified private or commercial applicators;

6. Applications will be made prior to the bloom stage of development;

7. This product is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds or crops in bloom if bees are visiting the area. Protective information may be obtained from the State Cooperative Extension Service;

8. Permethrin should not be applied with ground equipment any closer to fish-bearing waters than indicated in the chart below:

Application rate (lbs. A.I.)	0.1	0.2
Freshwater (distance in feet)	47	84

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills;

9. This product is toxic to fish. It must be kept out of lakes, streams or ponds. Water must not be contaminated by the cleaning of equipment or disposal of wastes. It may not be applied when weather conditions favor drift from the target area;

10. Residue levels of permethrin are not expected to exceed 0.5 ppm in grapes and 2.0 ppm in raisins. Grapes and raisins with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. All directions, restrictions, and precautions on the EPA-registered must be followed;

12. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 15, 1980; and

13. The EPA shall be immediately informed of any adverse effects resulting from the use of permethrin in connection with this exemption.

(Sec. 18, as amended, 92 Stat. 819; (7 U.S.C. 136))

Dated: March 28, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-10432 Filed 4-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1457-1; 80P-68]

North Carolina Department of Agriculture; Specific Exemption To Use Triforine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "Applicant") to use triforine (Funginex EC) to control mummyberry on 1,000 acres of blueberries in North Carolina.

DATE: The specific exemption ends on May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: Mummyberry is caused by the fungus *Monilinia vaccinii corymbosi.* Primary infection by ascospores takes place early in the spring just as the leaf and flower buds begin to grow. These ascospores are released from spore cups that develop from mummified fruit. Spore cup emergence coincides with the emergence of the young susceptible tissues of the plant.

Mummies are a result of the disease from the previous crop and have overwintered on or near the surface of the soil beneath the bushes. Infected blossoms and leaves turn brown and wither as a result of these primary infections. The fungus then produces a second spore type on these infected tissues. These are blown onto remaining blossoms where secondary infection takes place on the developing pistils of the flowers. These flower infections remain undetected until the fruits begin to enlarge. The infected fruits turn off-color and usually drop to the ground before healthy berries mature. These mummified fruits persist through the winter and act as a source of the fungus for the primary infection of the following spring.

Currently there are four fungicides registered for the control of the primary infection stage: benomyl, captan, ferbam, and ziram. Data indicate that these fungicides are relatively ineffective in controlling primary infections of this disease. Cultural practices have also not been successful in commercial planting. However, triforine (N,N-[1,4-piperazine-diylbis (2,2,2-trichloroethylidene)]-bis-[formamide]) appeared to be efficacious in suppressing this pathogen. Triforine is

registered in the United States under the trade name Funginex EC. It was estimated by the Applicant that the economic loss might be as much as $250,000 with no control program, while losses with the use of triforine are estimated at $150,000.

The Applicant proposed to use Funginex EC at a maximum rate of 0.3 pound active ingredient (a.i.) per acre, in a maximum of three applications. 90% of the acreage would be treated using ground equipment and the remaining 10% would be treated using aerial equipment. EPA has determined that residues of triforine from this use should not exceed 0.1 part per million (ppm). This level has been deemed adequate to protect the public health. Based on the low toxicity, short half-life, and low application rate, no serious hazards to fish and wildlife are expected.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Monilinia* mummyberry has occurred or is likely to occur this year on blueberries in North Carolina; (b) there is no effective pesticide presently registered and available for use to control this pest in North Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above, under the Federal Insecticide, Fungicide, and Rodenticide Act, until May 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is subject to the following conditions:

1. The product Funginex EC, EPA Reg. No. 21137–4, may be applied;

2. A maximum of 1,000 acres may be treated using ground or aerial equipment;

3. Triforine will be applied at a rate of 24 ozs. of formulation (0.3 pound a.i.) per acre;

4. A maximum of three applications may be made. The first may be made at bud break. Thereafter, applications may be made at 7- to 10-day intervals.

5. A maximum of 560 gallons of Funginex EC may be used;

6. Harvested blueberries with a triforine residue level not exceeding 0.1 ppm may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. The EPA will be immediately informed of any adverse effects resulting from the use of triforine in connection with this exemption and;

8. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by November 30, 1980.

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: March 28, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–10433 Filed 4–4–80; 8:45 am]

BILLING CODE 6560–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Equal Pay Act Administration; Federal Sector; Delegation of Authority

Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), transferred all functions related to enforcing or administering Section 6(d) of the Fair Labor Standards Act (FLSA), as amended, 29 U.S.C. § 206(d), to the Equal Employment Opportunity Commission. Included in this transfer is authority to administer and enforce the Equal Pay Act (EPA) insofar as it covers federal employees. This authority was previously vested in the Civil Service Commission pursuant to Section 4(f) of the FLSA, 29 U.S.C. § 204(f). The Equal Employment Opportunity Commission has voted to continue in effect the substance of EPA portions of Federal Personnel Manual Letter 551–9, *see* 43 FR 60900 (December 29, 1978), which provides for federal agency compliance with the FLSA.

As provided in Sections 4(f), 11 and 16 of the FLSA, 29 U.S.C. §§ 204(f), 211 and 216, the Commission and its authorized representatives may, with regard to allegations of violations of the Equal Pay Act by federal agencies: (1) investigate and gather data; (2) enter and inspect places of employment and records, and make transcriptions thereof, and interview individuals; (3) advise federal agencies regarding any changes necessary or desirable to comply with the Act; and (4) supervise the payments of amounts owing pursuant to Section 16(c) of the FLSA, 29 U.S.C. § 216(c).

The District Directors and the Director of Field Services, or the designees of any of them, are hereby delegated authority to exercise the powers enumerated in Items (1), (2), (3) and (4) above.

Complaints and information relating to possible violations of the Equal Pay act by agencies of the federal government may be received at any of the offices of the Commission in Washington, D.C., or any of its district or area offices, or by any of its designated representatives.

The identity of persons giving information as to violations of the Act shall not be disclosed unless necessary in a court proceeding.

Effective date. This delegation of authority shall be effective upon date of signature.

Signed at Washington, D.C. this first day of April, 1980.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80–10293 Filed 4–4–80; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL COMMUNICATIONS COMMISSION

[Rpt. No. A–10]

AM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: March 31, 1980.

Cutoff date: May 15, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after May 15, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on May 15, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on May 15, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on May 15, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP–20,824: WMRO, Aurora, Illinois. Stevens Communications Corp. Has: 1280 kHz, 0.5 kW, 1 kW–LS, DA–2, U. Req: 1280 kHz, 0.5 kW, 2.5 kW–LS, DA–2, U.

BP–790807AF: KCRE, Crescent City,

California, Pyramid Properties. Has: 1310 kHz, 1 kW, D. Req: 1310 kHZ, 1 kW, DA–N, U.

[FR Doc. 80–10416 Filed 4–4–80; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 78–331]

Interconnection of Communications Equipment or Security Devices to the Public Switched Telephone Network

In the Matter of Applications by the Federal Executive Agencies of the U.S. Government for authority to qualify for the interconnection of communications equipment or security devices to the public switched telephone network pursuant to § 68.2(d) of the Commission's rules, CC Docket 78–331. See also 45 FR 1454, January 7, 1980.

Order

Adopted: March 31, 1980.

Released: April 2, 1980.

1. The Commission's Order (FCC 79–728) released November 14, 1979 amended § 68.2 of the Commission's rules and regulations, 47 CFR § 68.2, to permit governmental departments, agencies or administrations to connect communications equipment or security devices to the public switched telephone network without compliance with Part 68 of the rules provided that proper written certification is made to the appropriate common carrier and provided proper written certification has been approved in writing by the commission pursuant to § 68.2(d).

2. On December 19, 1979 we received a request for permanent authority and a request for special temporary authority to qualify for the interconnection of communications equipment or security devices to the public switched telephone network pursuant to § 68.2(d) of the Commission's rules on behalf of:

Department of State
Department of Defense
General Services Administration
Department of Treasury
Central Intelligency Agency
Federal Bureau of Investigation
Department of Justice
Department of Commerce
Department of Transportation
Federal Reserve Board

3. These request state that each of these organizations employ communications equipment and security devices which connect to the public switched telephone network in support of at least one of the following purposes:

a. Communications support of the President and other senior U.S. government officials;

b. Communications support of the U.S. intelligency activities; including counter-intelligence;

c. Communications support of criminal investigative activities; and

d. Communications support of other classified/sensitive U.S. government activities.

Authority for the above-named governmental entities to act pursuant to § 68.2(d) is being requested to avoid the public release of classified information regarding communications equipment or security devices employed in support of the above purposes.

4. The Commission's Order indicated that a list of governmental departments, agencies or administrations filing requests to act pursuant to § 68.2(d) will be published in the **Federal Register** and that the Commission would act on such request only upon the expiration of 30 days after such publication. That Order also instructed American Telephone & Telegraph Company to amend all applicable tariffs to implement the national security exemption from Part 68 effective January 1, 1980. The Order stated that the Commission may grant on less than the normal notice or without notice, special temporary authority not to exceed 90 days for governmental departments, agencies or administrations that wish to qualify for interconnection of equipment or security devices pursuant to Section 68.2(d). Temporary authority was granted by order released December 31, 1979.

5. The request for permanent authority for exemption from Part 68 of the Commission's rules, was published in the **Federal Register** on January 7, 1980. No comments or oppositions have been received. Having reviewed this request we find it consistent with the Commission's rules and policies. Therefore, it will be granted.

6. Accordingly, pursuant to the authority delegated in § 0.291 of the Commission's rules and regulations, 47 CFR § 0.291, it is hereby ordered that permanent exemption is granted to the Federal Executive Agencies identified in paragraph (2) above for permanent exemption to Part 68 of the Commission's rules and regulations, as provided in § 68.2(d) (47 CFR 68.2(d)) effective immediately. Notice of this action will be published in the **Federal Register.**

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80–10417 Filed 4–4–80; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1222]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

March 28, 1980.

Docket for RM No.	Rule No.	Subject	Date received
21005		Interface of the International Telex Service with the Domestic Telex and TWX Services.. (Filed by Francis J. DeRosa and Charles M. Lehrhaupt, Attorneys for RCA Global Communications, Inc.).	3–17–80

Note.—Oppositions to petitions for reconsideration must be filed on or before April 22, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–10316 Filed 4–4–80; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL LABOR RELATIONS AUTHORITY

Proposed Implementation of the Federal Employees Part-time Career Employment Act of 1978

AGENCY: Federal Labor Relations Authority.

ACTION: Notice proposed implementation of the Federal Employees Part-time Career Employment Act of 1978.

SUMMARY: The Federal Labor Relations Authority (FLRA) proposes to issue internal regulations to govern the operation of a part-time career employment program mandated by the Federal Employee Part-time Career Employment Act of 1978 (5 U.S.C. 3401 *et seq.*). The proposed internal regulations define the purpose and coverage of the program as it will be implemented by the FLRA and designates the Director of Personnel as the part-time employment coordinator with responsibility for implementing and overseeing the program. The proposed internal regulations also provide criteria to be used in establishing or converting vacant jobs to part-time positions, and provide for the creation of a plan for promoting part-time employment. Certain part-time employee rights with respect to training and merit promotion are set forth.

DATES: Submit written comments, suggestions, or objections on or before May 30, 1980. Comments may be addressed to: Federal Labor Relations Authority, Attn.: Director of Personnel, Room 7469, 1900 E St. NW., Washington, D.C. 20424. All written comments will be available for public inspection in Room 7469, 1900 E St. NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Clyde B. Blandford, Jr., Director of Personnel (telephone: 202–632–6880).

Part-Time Employment Program

Section 1—Purpose

The purpose of these regulations is to implement P.L. 95–437, the Federal Employees Part-time Career Employment Act of 1978, by establishing a continuing program within the Federal Labor Relations Authority (the "FLRA" or the "Authority") so as to provide career part-time employment opportunities. The intent of this program within the FLRA is two-fold: (1) to promote the unrealized capabilities and/or potential of individuals who are unable to work on a full-time basis—for example, handicapped individuals, parents who wish to balance family responsibilities with the need for additional income—as well as persons reentering the work force, individuals who wish to make a gradual transition into retirement, students who must finance their education; and (2) to draw upon valuable untapped human resources for the good of the FLRA and the Federal Government in general.

Section 2—Policy

It is the policy of the FLRA to provide career part-time employment opportunities in positions through GS–15 to the maximum extent consistent with agency resources and mission requirements.

Section 3—Definitions

3–1 *Part-time Career Employment*

Described as regularly scheduled work of from 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis. These positions are in either the competitive or excepted service in tenure groups I or II. Tenure group I applies to employees in the competitive service under career appointments who are not serving probation and permanent employees in the excepted service whose appointments carry no restrictions or conditions. Tenure group II applies to employees in the competitive service serving probation, career-conditional employees and career employees in obligated positions. It also includes employees in the excepted service serving trial periods, whose tenure is indefinite solely because they occupy obligated positions; or whose tenure is equivalent to career-conditional in the competitive service.

3–2 *Scope*

These procedures apply within all organizations and geographical areas of the FLRA.

3–3 *Exclusions*

Excluded from this program are positions above GS–15. Also excluded are temporary and intermittent positions.

3–4 *Exceptions*

The Authority Members, General Counsel, or Members of the Federal Service Impasses Panel may except positions from inclusion in this program as necessary to carry out the mission of the FLRA. In making such determinations, consideration will be given to the criteria set forth in section 5–1, below.

Section 4—Responsibilities

4–1 *Program Coordination*

The Director of Personnel, FLRA, is designated as part-time employment coordinator with responsibility for:

a. Overseeing development and implementation of part-time employment goals and timetables established by the Authority Members, the General Counsel, or the Members of the Federal Service Impasses Panel.

b. Responding to requests for advice and assistance on part-time employment within FLRA.

c. Monitoring agency progress in expanding part-time employment opportunities.

d. Adhering to reporting requirements established by the Office of Personnel Management and the Congress.

e. Assuring that the general public is notified of vacant part-time positions.

Section 5—Position Management

5–1 *Review of Vacant Positions*

Positions becoming vacant, unless excepted as provided in paragraph 3–4, above, will be reviewed to determine the feasibility of converting the positions from full-time to part-time. Among the criteria which may be considered when conducting such reviews are:

—mission requirements
—occupational mix
—workload fluctuations
—employment ceilings and budgetary considerations
—size of work force (including turnover rate)
—affirmative action
—number of potential applicants for part-time employment

5–2 *Establishing/Converting Positions*

Based on the procedures discussed in paragraph 5–1, above, once a decision has been made to convert to, or establish, a part-time position, position management and classification procedures already established by the Office of Personnel Management will be followed. No full-time position occupied by an incumbent will be abolished for the purpose of converting the position to part-time. Additionally, no full-time employee will be required to accept part-time employment as a condition of continued employment.

5–3 *Publicizing Vacancies*

The public will be notified of part-time vacant positions by agency vacancy announcement, notification to Federal Job Information Centers, and other appropriate sources. Recruiting will be reasonably extensive, and positive efforts will be made to notify groups and organizations which either focus directly on part-time employees or which deal with individuals who are unavailable to work on a full-time basis, such as those listed in section 1. In this regard, positive efforts will be made to locate qualified minorities and women.

5–4 *Employee Benefits and Reductions-in-Force*

Part-time employees are entitled to coverage under the Civil Service Retirement System, and are eligible for coverage under the Federal Employees Group Life Insurance and Federal Employee Health Benefits programs. It should be noted that the Government contribution toward the cost of an enrollment under the Federal Employee Health Benefits program will be determined by comparing the number of hours a part-time employee works with the number of hours a full-time employee in the same position works. Part-time employees will receive full civil service retirement credit; i.e., even though the employee will be working less than a 40-hour week, he/she will receive credit for the full 40-hour week for service computation purposes. Part-time employees will earn sick and annual leave on a prorated basis, based on the number of hours worked, and the amount of Federal service. During reductions-in-Force, part-time

employees will compete with full-time employees on an equal basis (based on years of service, veterans preference, etc.)

Section 6—Goals, Timetables, and Evaluation

A plan for promoting part-time employment opportunities—including goals and timetables—will be developed annually by the Director of Personnel, FLRA—in consultation with appropriate operating elements. This plan will establish annual goals and set deadlines for achieving these goals.

Section 7—Merit Promotion and Training

Part-time employees are eligible to compete for any position—either part-time or full-time—for which he/she qualifies. Additionally, part-time employees will be granted consideration for job-related training courses in the same manner as full-time employees.

Section 8—Tours of Duty

Requests for changes in established work schedules (within the 16–32 hour limit) must be approved by: (1) the Executive Director of the Authority or his/her designee for Authority employees, the Deputy General Counsel or his/her designee for Office of General Counsel employees, the Executive Director, Federal Service Impasses Panel, or his/her designee, for FSIP employees; and (2) the Director of Personnel as Program Coordinator.

Dated: March 28, 1980.

Harold D. Kessler,

Deputy Executive Director.

[FR Doc. 80-10178 Filed 4-4-80; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1246]

E. Allen Brown; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of E. Allen Brown, P.O. Box 38022, Jacksonville, Florida 32206, FMC No. 1246, was cancelled effective December 23, 1979.

By letter dated December 7, 1979, E. Allen Brown was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1246 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

E. Allen Brown has failed to furnish a valid surety bond.

The licensee was the subject of Federal Maritime Commission Docket 79–16. The Commission's Final Order on Docket 79–16, *E. Allen Brown—Independent Ocean Freight Forwarder License No. 1246,* was issued on March 24, 1980, disposing of that matter.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1246 be and is hereby revoked effective December 23, 1979.

It is ordered, That Independent Ocean Freight Forwarder License No. 1246, issued E. Allen Brown be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon E. Allen Brown.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-10354 Filed 4-4-80; 8:45 am]

BILLING CODE 6730-01-M

Performance Review Board

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: William J. Herron, Jr., Director, Office of Personnel, Federal Maritime Commission, 1100 L Street, N.W. Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Sec. 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Federal Maritime Commission.

Richard J. Daschbach,

Chairman.

The members of the Performance Review Board are:

1. Thomas F. Moakley, Vice Chairman
2. Dr. Leslie L. Kanuk, Commissioner
3. James V. Day, Commissioner
4. Dr. George Biles, Dean, School of Business Administration, The American University
5. Nicholas N. Kittrie, Dean, Washington College of Law, The American University
6. William L. Crump, Dean, College of Business and Public Management, University of the District of Columbia
7. Dr. William G. Droms, Associate Dean, School of Business Administration, Georgetown University
8. Professor Jeanus B. Parks, Jr., Howard University School of Law
9. John E. Cograve, Chief Administrative Law Judge
10. William Beasley Harris, Administrative Law Judge
11. Seymour Glanzer, Administrative Law Judge
12. Charles E. Morgan, Administrative Law Judge
13. Norman D. Kline, Administrative Law Judge
14. Joseph N. Ingolia, Administrative Law Judge
15. Paul J. Fitzpatrick, Administrative Law Judge
16. Arthur Pankopf, Managing Director
17. Wm. Jarrel Smith, Jr., Deputy Managing Director
18. James K. Cooper, Director, Bureau of Ocean Commerce Regulation
19. Daniel J. Connors, Deputy Director, Bureau of Ocean Commerce Regulation
20. John Robert Ewers, Director, Bureau of Hearing Counsel
21. Robert G. Drew, Director, Bureau of Certification and Licensing
22. Albert J. Klingel, Jr., Director, Bureau of Industry Economics
23. Francis C. Hurney, Secretary
24. Brien E. Kehoe, General Counsel
25. Robert D. Bourgoin, Deputy General Counsel
26. Edward C. Gruis, Deputy General Counsel

[FR Doc. 80-10355 Filed 4-4-80; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 31, 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 each 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 FCC requests 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 25, 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.

Federal Communications Commission

The FCC requests an extension-without-change clearance of Form 308, Application for Permit to Deliver Programs to Foreign Broadcast Stations. Form 308 is used to apply for authority to locate, use, or maintain a studio in the United States for the purpose of supplying program material to a foreign radio or television broadcast station whose signals are consistently received in the United States. The form is required by Section 325(a) of the Communications Act of 1934, as amended, and §§ 73.3511 and 73.3545 of the FCC Rules and Regulations. The FCC receives approximately 10 applications annually and estimates that respondent burden averages 22 hours per application.

The FCC requests an extension-without-change clearance of Form 309, Application for Authority to Construct or Make Changes in an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station. Form 309 is used to apply for authority to construct a new international, experimental television, experimental facsimile, or a developmental broadcast station. The Form is required by Sections 308 and 309 of the Communications Act of 1934, as amended, and §§ 73.3500 and 73.3533 of the FCC Rules and Regulations. The FCC receives approximately 30 applications annually and estimates that respondent burden averages 84 hours per application.

The FCC requests an extension-without-change clearance of Form 310, Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License. Form 310 is submitted by permittees of classes of radio stations indicated who apply for licenses following construction of new or changes facilities. The form is required by Sections 308 and 309 of the Communications Act of 1934, as amended, and §§ 73.731, 73.3500 and 73.3636 of the FCC Rules and Regulations. The FCC receives approximately 10 applications annually and estimates that respondent burden averages 158 hours per application.

The FCC requests an extension-without-change clearance of Form 316, Application for Consent to Assignement of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License. Form 316 is used for voluntary or involuntary assignment or transfer of control of a radio broadcast station. The form is required by §§ 73.3540 and 73.3541 of the FCC Rules and Regulations and Sections 308 and 309 of the Communications Act of 1934, as amended. The FCC receives approximately 413 applications annually and estimates that respondent burden averages 4 hours per application.

The FCC requests an extension-without-change clearance of Form 330–L, Application for Educational Television Fixed-Station License. Form 330–L is used to apply for an instructional television fixed-station license. The form is required by §§ 73.3536, 74.901 and 74.911 of the FCC Rules and Regulations, and Sections 308 and 309 of the Communications Act of 1934, as amended. The FCC receives approximately 15 applications annually and estimates that respondent burden averages 73 hours per application.

The FCC requests an extension-without-change clearance of Form 345, Application for Consent to Assignment of Broadcast Translator Station Construction Permit or License. Form 345 is used for requesting assignment of a translator station construction permit or license and associated auxilliary stations, such as translator microwave relay stations, and UHF translator booster stations. The form is required by Sections 308 and 309 of the Communications Act of 1934, as amended, and §§ 73.3500, 73.3511, 73.3540, and 74.731 of the FCC receives Rules and Regulations. The FCC approximately 67 applications annually and estimates that respondent burden averages 10 hours per application.

The FCC requests an extension-without-change clearance of Form 346, Application for Authority to Construct or Make Changes in a TV or FM Broadcast Translator Station. Form 346 is filed by those applying for authority to construct or make changes in an existing television or FM broadcast translator station. The form is required by §§ 73.3533, 74.701, 74.751 and 74.3500 of the Commission's Rules and Regulations, and Sections 308 and 309 of the Communications Act of 1934, as amended.

The FCC requests an extension-without-change clearance of Form 347, Application for TV or FM Broadcast Translator Station License. Form 347 is submitted by permittees of VHF and UHF television or FM broadcast translator stations who apply for a license following construction of new or changed facilities. The form is required by Sections 308 and 309 of the Communications Act of 1934, as amended, and §§ 74.702 through 74.732, and 74.1201 through 74.1232, and 73.3536 of the FCC Rules and Regulations. The FCC receives approximately 418 applications annually and estimates respondent burden averages 3 hours per application.

The FCC requests an extension-without-change clearance of Form 348, Application for Renewal of TV or FM Broadcast Translator Station License. Form 348 is submitted by licensees for renewal of VHF or UHF television or FM broadcast translator stations when current operating authority is expiring. The form is required by §§ 73.3539 and 73.3511 of the FCC Rules and Regulations, and Sections 308 and 309 of the Communications Act of 1934, as amended. The FCC receives approximately 1,302 applications annually and estimates respondent burden averages 8 hours per application.

The FCC requests an extension-without-change clearance of the Standard Broadcast and FM Station Program Logging Rules. §§ 73.1800 through 73.1850 of the Commission's Rules and Regulations require that standard broadcast and FM licensees maintain program logs so the Commission can assess the licensees' performance in serving the public interest. The FCC estimates that approximately 9,116 standard broadcast and FM stations maintain program logs and that respondent burden averages 4,380 hours annually per station.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–10405 Filed 4–4–80; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Services Administration Federal Advisory Committee has been filed with the Library of Congress:

Interagency Committee on Emergency Medical Services

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Dr. David Boyd, Bureau of Medical Services, Federal Building #3, Room 11–64, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436–6284.

Dated: March 28, 1980.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 80-10352 Filed 4-4-80; 8:45 am]

BILLING CODE 4110-84-M

Office of the Secretary

Board of Advisors to the Fund for the Improvement of Postsecondary Education; Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education will be held on May 29, 1980 at 5:00 p.m. through May 31, 1980 at 2:30 p.m. at the Belmont Conference Center, 6555 Belmont Woods, Elkridge, Maryland.

The Board of Advisors to the Fund was established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount under Section 404 of the General Education Provisions Act.

The meeting will not be open to the public. It will be for the sole purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program. The meeting will involve discussion of project designs, personnel, and other information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. It has therefore been determined that closing this meeting is in accordance with 5 U.S.C. 552b(c)(4) and (6) and the policies of the Federal Advisory Committee Act.

A summary of the proceedings of the meeting and a roster of members may be obtained from the fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW., Room 3123, Washington, D.C. 20202, telephone (202) 245–8091.

Signed at Washington, D.C. on March 10, 1980.

Charles I. Bunting,

Acting Director, Fund for the Improvement of Postsecondary Education.

[FR Doc. 80-10358 Filed 4-4-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-80-597]

Redelegation of Authority

David E. Pinsky, Daniel F. Martini, Herbert E. Muse, and Robert S. Ernst, each of whom is an attorney in the Office of the General Counsel, is each hereby redelegated the authority to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the National Housing Act, 12 U.S.C. § 1701 *et. seq.*

EFFECTIVE DATE: This redelegation is effective January 1, 1980.

(§ 204(g), National Housing Act, 12 U.S.C. § 1710(g); 36 FR 5005 (1971); 41 FR 24755 (1976))

Issued at Washington, D.C., March 27, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-10309 Filed 4-4-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. N-80-991]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: The system shall become effective May 7, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Departmental of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Department Privacy Act Officer, Telephone 202–557–0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The system is Claims Collection Records which will contain information about individuals who are delinquent in their debts to the Department. The system is being published separate from HUD/DEPT–2, Accounting Records, to more clearly identify its purpose and to more accurately describe its character. A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on February 25, 1980. The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 44 FR 72288 (December 13, 1979). Appendix A, which lists the addresses of HUD's field offices was published at 44 FR 72307 (December 13, 1979) and supplemented at 45 FR 6479 (January 28, 1980). A description of HUD/DEPT–2, Accounting Records, was published at 44 FR 72289 (December 13, 1979).

HUD/DEPT-62

SYSTEM NAME:

Claims Collection Records

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors; mortgagees; grant/project and loan applicants and recients; HUD personnel; vendors; brokers; bidders; managers; tenants; builders, developers, contractors, and appraisers; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files; fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; bills of lading; vouchers; invoices; receipts; mortgagors, builder's and contractor's financial statements, records and audit reports;

deposit and receipt records; disbursements and cancelled checks; repurchases of mortgages; adjustments from recoveries, defaults, acquired home property records; sales closing papers; statements of accounts; tax records; certifications and applications for assistance; and notices of court action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966 (Section 1, Pub. L. 89–508).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Justice Department—for prosecution of fraud revealed in the course of claims collection efforts, and for the institution of foreclosure or other procedings to effect collection of claims; FBI—for investigation of possible fraud revealed in the course of claims collection efforts; General Accounting Office—for the institution of proceedings to effect collection of claims; other Federal Agencies—to facilitate collection of claims against Federal employees; Office of Personnel Management—for offsetting retirement payments; and to commercial credit bureaus—to facilitate claim collection consistent with Federal Claims Collection Standards 4 CFR § 102.4.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Desks; safes; locked file cabinets.

RETRIEVABILITY:

Name, Social Security Number, Project Name and Number, and Contract Number.

SAFEGUARDS:

Locked files; limited access by authorized individuals.

RETENTION AND DISPOSAL.

GSA schedules of retention and disposal; destruction one year after statute of limitation expiration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-Federal government agencies; HUD personnel.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., March 27, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80-10310 Filed 4-4-80; 8:45 a.m.]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alaska; Filing of Plat of Survey

March 27, 1980.

1. Plant of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10 a.m. May 12, 1980.

Seward Meridian

T. 20 N., R. 1 E.,
Sec 24: S½;
Sec 25: Lots 1, 2, NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, S½SW¼, SE¼;
Sec 36: Lots 1,2 N½, S½SW¼, SE¼;
Tract A;
Tract B;
Tract C;
Tract D;
Tract E;
Tract F;
Tract G;
Tract H;
Tract I;
Containing 20,034.05 acres.

2. Township 20 North, Range 1 East is situated approximately 14½ miles northeasterly of the community of Palmer, Alaska, accessible by the Wasilla Fishhook Road. Willow Creek Road traverses through Sections 35 and 36, with connecting mining roads extending into Sections 14, 15, 23, 24, and 25.

Except for the area in the southern part of the township along the Little Susitna River and Hatcher and Willow Creeks, the area is mountainous, with elevations ranging from 1600 to 6100 feet above sea level. General drainage is to the southwest. Alpine lakes and glaciers are located in the northern ⅓ of township.

Vegetation consists of willow and alder along the streams, with alpine tundra above timberline. In some places, clumps of young alder grow in the areas with rocky soil.

Numerous mineral claims are located in the general area of the southern two-thirds of the township. The abandoned mill site for the Mabel Mine is located in Section 25.

Little Susitna Roadhouse, the only permanent dwelling in the area, is located on Willow Creek Road at the junction with a trail road extending easterly in Section 36.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules, and regulations.

4. Inquires concerning the lands should be addressed to the State Director, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Irving Zirpel, Jr.,

Chief, Division of Cadastral Survey.

[FR Doc. 80-10362 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Alaska; Filing of Plat of Survey

March 26, 1980.

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10 a.m. May 12, 1980.

Seward Meridian

T. 12 N., R. 2 W.,
Sec 5: Lots 1, 2, 3, 4, S½N½, S½;
Containing 640.39 acres.

2. The land encompassed in this survey is located on the westerly slope of the foothills of the Chugach Mountains between the North and South Forks Campbell Creek. The North Fork Campbell Creek traverses the north boundary of section 5.

The southeast portion of section 5 is above timber line at about 2,500 feet above sea level, sloping northwesterly to an elevation of about 1,500 feet above sea level in the northern portion of the section.

There is no roads in the survey, however a labyrinth of foot trails exist and are used by recreationists.

The highest elevations are rocky and void of vegetation. The lower elevations are covered with spruce, birch, cottonwood and hemlock timber with dense alder undergrowth. No minerals were noted.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the State Director, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Irving Zirpel, Jr.,

Chief, Division of Cadastral Survey.

[FR Doc. 80-10363 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Alaska; Filing of Plat of Survey

March 19, 1980.

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m., May 6, 1980.

Seward Meridian

T. 33 S., R. 45 W,
Sec 1: Lot 6.
Containing 0.87 acres.

2. This island survey is located adjacent to the northwest shore of Wide Bay, approximately 70 airline miles southeast of Egegik, Alaska.

The soil is sandy loam with salt grass vegetation. There are no improvements in this general area.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the State Director, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Irving Zirpel, Jr.,

Chief, Division of Cadastral Survey.

[FR Doc. 80-10364 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Alaska; Filing of Plat of Survey

March 19, 1980.

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m. May 6, 1980.

Seward Meridian

T. 32 S., R. 44 W,
Sec. 33: Lots 1, 2, 3, 4, 5, 6, 7, N½, W½SW¼;
Sec. 34: Lots 1, 2, 3, 4, 5, 6, NW¼NE¼, NW¼.
Containing 883.01 acres.

2. This survey is located on the northwest shore of Wide Bay. The land is rolling hills of tundra with scrub alder and willow underbrush. Short Creek flows easterly through both sections 33 and 34.

The soil is second rate. The beaches are sandy and gravelly. Access is by boat or aircraft. An oil company runway extends through both sections 33 and 34. It is located principally in section 34. The improvements, outfitters cabins, are described in the body of the field notes.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the State Director, Alaska State Office, 701 C Street, Box 13 Anchorage, Alaska 99513.

Irving Zirpel, Jr.,

Chief, Division of Cadastral Survey.

[FR Doc. 80-10365 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

[I-14943 (943); OR-20112]

Oregon; Application

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation, Salt Lake City, Utah 84111 has applied for a natural gas pipeline and appurtenances across the following described Federal lands:

U.S.A. Lands

Willamette Meridian, Oregon

T. 2 S., R. 36 E.,
Sec. 5, SW¼SW¼;
Sec. 8, SE¼SW¼ and SW¼SE¼;
Sec. 16, SW¼NW¼, N½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 17, N½NE¼ and SE¼NE¼;
Sec. 21, N½NE¼ and SE¼NE¼;
Sec. 22, SW¼NW¼, N½W¼, SE¼SW¼ and S½SE¼;
Sec. 25, W½SW¼ and SE¼SW¼;
Sec. 26, SW¼NE¼, W½NW¼, SE¼NW¼ and N½SE¼;
Sec. 27, NE¼NE¼.
T. 7 S., R. 39 E.,
Sec. 26, SE¼SE¼;
Sec. 35, NE¼NE¼.
T. 9 S., R. 40 E.,
Sec. 34, SW¼NW¼.
T. 10 S., R. 41 E.,
Sec. 14, NE¼SW¼;
Sec. 24, E½SE¼SE¼.
T. 10 S., R. 42 E.,
Sec. 19, Lot 4;
Sec. 28, SW¼SW¼;
Sec. 30, W½NE¼ and NE¼NW¼;
Sec. 33, NW¼NW¼.
T. 11 S., R. 42 E.,
Sec. 12, SE¼SE¼.
T. 11 S., R. 43 E.,
Sec. 7, Lot 4;
Sec. 18, Lot 1, SW¼NE¼ and NE¼NW¼.
T. 12 S., R. 43 E.,
Sec. 10, W½NE¼ and NE¼NW¼;
Sec. 13, S½SW¼;
Sec. 14, NE¼NW¼.
T. 12 S., R. 44 E.,
Sec. 19, SE¼NE¼;
Sec. 29, S½NW¼, NE¼SW¼ and W½SE¼.
T. 13 S., R. 44 E.,
Sec. 4, Lot 4;
Sec. 21, W½NE¼, SE¼NW¼ and NE¼SW¼.
T. 14 S., R. 44 E.,
Sec. 11, W½SE¼;
Sec. 14, W½NE¼;
Sec. 24, E½NW¼, NE¼SW¼ and NW¼SE¼.
T. 15 S., R. 45 E.,
Sec. 9, E½SW¼;
Sec. 15, SW¼NW¼, N½SW¼ and SE¼SW¼;
Sec. 16, E½NE¼;
Sec. 22, W½NE¼ and NE¼NW¼.
T. 16 S., R. 46 E.,
Sec. 6, NE¼SW¼, W½SE¼ and SE¼SE¼;
Sec. 7, E½NE¼;
Sec. 8, SW¼NW¼;
Sec. 27, SW¼NW¼, W½SW¼ and SE¼SW¼;
Sec. 34, W½NE¼, NE¼NW¼ and NW¼SE¼.

Boise Meridian, Idaho

T. 2 N., R. 1 E.,
Sec. 14, SW¼NW¼;
Sec. 24, N½SW¼, SE¼SW¼ and SW¼SE¼;
Sec. 25, N½NE¼.
T. 1 N., R. 2 E.,
Sec. 3, SW¼NW¼;
Sec. 10, NE¼NE¼;
Sec. 11, SW¼NE¼, N½NW¼, SE¼NW¼, N½SE¼ and SE¼SE¼;
Sec. 12, S½SW¼;
Sec. 13, NW¼NE¼, S½NE¼, NE¼NW¼ and NE¼SE¼.

T. 2 N., R. 2 E.,
Sec. 30, Lot. 2.
T. 1 N., R. 3 E.,
Sec. 18, Lot 3, E½SW¼ and SW¼SE¼;
Sec. 28, NE¼SE¼;
Sec. 34, N½NE¼, SE¼NE¼ and NE¼NW¼.
T. 5 N., R. 2 W.,
Sec. 29, NW¼NW¼.
T. 5 N., R. 3 W.,
Sec. 2, SW¼SW¼.
T. 6 N., R. 3 W.,
Sec. 7, Lots 3 and 4;
Sec. 20, W½SE¼ and SE¼SE¼;
Sec. 28, NW¼NW¼;
Sec. 29, NE¼NE¼.
T. 6 N., R. 4 W.,
Sec. 1, W½SW¼ and SE¼SW¼;
Sec. 2, Lots 2 and 3, S½NE¼ and NE¼SE¼;
Sec. 12, W½NE¼, SE¼NE¼, NE¼NW¼ and NE¼SE¼.
T. 7 N., R. 4 W.,
Sec. 35, SE¼SW¼.
T. 1 S., R. 3 E.,
Sec. 1, Lots 3 and 4, SW¼NE¼ and S½NW¼;
Sec. 2, Lot 1.
T. 1 S., R. 5 E.,
Sec. 31, N½SE¼;
Sec. 32, W½SW¼ and SE¼SW¼.
T. 2 S., R. 5 E.,
Sec. 5, Lot 2, S½NE¼;
Sec. 10, SW¼NW¼;
Sec. 15, N½NE¼ and SE¼NE¼;
Sec. 23, NE¼NE¼;
Sec. 24, Lots 3 and 4, NW¼NW¼, S½NW¼, NE¼SW¼ and NW¼SE¼.
T. 2 S., R. 6 E.,
Sec. 19, Lot 4;
Sec. 29, W½SW¼ and SE¼SW¼;
Sec. 30, Lot 1, S½NE¼, E½NW¼ and NE¼SE¼;
Sec. 32, W½NE¼, SE½NE¼ and NE¼NW¼;
Sec. 33, SW¼NW¼, N½SW¼, SE¼SW¼ and SW¼SE¼.
T. 3 S., R. 6 E.,
Sec. 4, Lots 1 and 2, SE¼NE¼;
Sec. 10, NE¼NE¼.
T. 3 S., R. 7 E.,
Sec. 18, SE¼SW¼ and SW¼SE¼;
Sec. 19, E½NE¼ and NW¼NE¼;
Sec. 20, SW¼NW¼, N½SW¼, W½SE¼ and SE¼SE¼;
Sec. 27, SW¼SW¼;
Sec. 28, SW¼NE¼, NW¼NW¼, S½NW¼, N½SE¼ and SE¼SE¼;
Sec. 29, NE¼NE¼;
Sec. 34, S½NE¼, N½NW¼, SE¼NW¼ and NE¼SE¼;
Sec. 35, NW¼SW¼ and S½SW¼.
T. 4 S., R. 7 E.,
Sec. 1, Lot 7, E½SW¼, NW¼SW¼ and S½SE¼;
Sec. 2, Lots 5, 6, 7 and 12;
Sec. 12, NE¼NE¼.
T. 4 S., R. 8 E.,
Sec. 7, Lots 1 and 2, SE¼NW¼, NE¼SW¼, N½SE¼ and SE¼SE¼;
Sec. 8, SW¼SW¼;
Sec. 17, S½NE¼, N½NW¼, SE¼NW¼ and N½SE¼;
Sec. 22, SW¼NW¼, N½SW¼, SE¼SW¼ and SW¼SE¼.
T. 4 S., R. 9 E.,
Sec. 31, Lots 3 and 4, SE¼SW¼ and SW¼SE¼.
T. 5 S., R. 9 E.,
Sec. 5, SE¼SE¼;
Sec. 6, Lots 2 and 3;
Sec. 8, NE¼NE¼;
Sec. 9, SW¼NE¼, W½NW¼, SE¼NW¼, N½SE¼ and SE¼SE¼;
Sec. 10, S½SW¼;
Sec. 14, SW¼NW¼, N½SW¼, SE¼SW¼ and S½SE¼;
Sec. 15, W½NE¼, SE¼NE¼ and NE¼NW¼;
Sec. 23, NE¼NE¼;
Sec. 24, SW¼NE¼, W½NW¼, SE¼NW¼, N½SE¼ and SE¼SE¼.
T. 5 S., R. 10 E.,
Sec. 33, W½SE¼ and SE¼SE¼.
T. 6 S., R. 10 E.,
Sec. 3, Lots 3 and 4, S½NW¼, NE¼SW¼, W½SE¼ and SE¼SE¼;
Sec. 10, NE¼NE¼;
Sec. 11, W½NW¼, N½SW¼, W½SE¼ and SE¼SE¼;
Sec. 13, SW¼NE¼, W½NW¼, SE¼NW¼, N½SE¼ and SE¼SE¼;
Sec. 14, NE¼NE¼.
T. 6 S., R. 11 E.,
Sec. 18, Lot 4;
Sec. 19, Lot 1, S½NE¼, E½NW¼ and NE¼SE¼;
Sec. 20, W½SW¼ and SE¼SW¼;
Sec. 28, SW¼NW¼, N½SW¼, SE¼SW¼ and S½SE¼;
Sec. 29, N½NE¼, SE¼NE¼ and NE¼NW¼;
Sec. 33, NE¼NE¼;
Sec. 34, W½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼ and SE¼SE¼;
Sec. 35, SW¼SW¼.
T. 7 S., R. 11 E.,
Sec. 1, Lots 3 and 4, NE¼SW¼, NW¼SE¼ and S½SE¼;
Sec. 2, Lot 1;
Sec. 12, NE¼NE¼.
T. 7 S., R. 12 E.,
Sec. 7, Lots 1 and 2, SW¼NE¼, N½SE¼ and SE¼SE¼;
Sec. 8, SW¼SW¼;
Sec. 17, S½NE¼, E¼NW¼, NW¼NW¼ and NE¼SE¼;
Sec. 26, SE¼NW¼ and NE¼SW¼.
T. 8 S., R. 13 E.,
Sec. 5, SW¼SW¼;
Sec. 6, N¾SE¼ and SE¼SE¼;
Sec. 8, S½NE¼, E¼NW¼, NW¼NW¼ and NE¼SE¼;
Sec. 9, NW¼SW¼ and S½SW¼;
Sec. 15, SW¼NW¼, E½SW¼, NW¼SW¼ and SW¼SE¼;
Sec. 22, NW¼NE¼;
Sec. 25, SW¼NE¼, N½NW¼, SE¼NW¼, N½SE¼ and SE¼SE¼.
T. 8 S., R 14 E.,
Sec. 30, Lot 4, SE¼SW¼;
Sec. 31, NE¼NW¼.
T. 9 S., R 14 E.,
Sec. 9, SW¼NE¼ and NW¼NW¼.
T. 11 S., R 21 E.,
Sec. 1, SE¼SW¼.

The pipeline will be constructed in two segments: the first running from a point near Stanfield, Oregon, to a terminus near Twin Falls, Idaho; the other traversing approximately 14 miles near Burley, Idaho.

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 on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the State Director, Bureau of Land Management, Box 042, Federal Building, 550 West Fort Street, Boise, Idaho 83724.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 10418 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Guidance for Compliance With the National Environmental Policy Act (NEPA)

AGENCY: Bureau of Land Management, Interior.

ACTION: Retraction of proposed guidance for NEPA implementing procedures.

SUMMARY: On March 19, 1980 (45 FR 17782) BLM published draft material related to its Environmental Protection and Enhancement System for implementing NEPA and the CEQ regulations (40 CFR 1500–1508). This material was published for interim use, testing, and public comment.

This publication was in error. The draft is not yet available for public review, and is still subject to internal Departmental review and clearance. Consequently, the March 19 publication and request for public comment is hereby retracted.

April 2, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management

[FR Doc. 80-10371 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Montana; Notice of Invitation; Coal Exploration License Application

March 26, 1980.

Members of the public are hereby invited to participate with Northern Resources Inc. in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in McCone County, Montana:

T. 20 N., R. 44 E., P.M.M.
Sec. 24: E½, SE¼NW¼, E½SW¼
Sec. 26: S½
Sec. 34: E½
T. 20 N., R. 45 E., P.M.M.
Sec. 2: Lots 1,2,3,4, S½N½, S½
Sec. 4: Lots 1,2,3, S½N½, S½
Sec. 8: All
Sec. 18: Lots 1,2,3,4, E½, E½W½
Sec. 20: All
Sec. 30: Lots 1,2,3,4, E½, E½W½
Sec. 32: All

T. 21 N., R. 45 E., P.M.M.
Sec. 26: SW¼, NE¼SE¼, S½SE¼
Sec. 28: SE¼SW¼
Sec. 32: S½NE¼, NW¼NW¼, S½
Sec. 34: All

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Northern Resources Inc., 704 First Northwestern Bank Center, 175 North 27th Street, Billings, Montana 59101. Such written notice must refer to serial number M 46024 and be received no later than May 7, 1980 or 10 calendar days after the last publication of this Notice in this newspaper, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Geological Survey and the Bureau of Land Management. Copies of the exploration plan as submitted by Northern Resources Inc. may be examined during normal business hours at the Bureau of Land Management State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-10294 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Filing of Plat of Survey

March 28, 1980.

1. Plat of survey of the lands described below will be officially filed in the Oregon State Office, Portland, Oregon, effective at 10:00 a.m. on May 5, 1980.

Willamette Meridian

T. 20 S., R. 6½ W.,
Secs. 1, 12, 13

2. This plat represents a survey of the subdivisional lines of said township.

3. The lands encompassed in this survey are located in the Coast Range approximately 25 miles southwest of Eugene, Oregon. Elevations range from about 800 ft. to 1,250 ft. above sea level. The soil is best suited for growing of timber, with timber harvesting and recreation being the chief activities of the area.

4. The above described lands are classified for Multiple Use Management pursuant to the Act of September 19, 1964 (78 Stat. 986).

Roger F. Dierking,

Chief, Branch of Records and Data Management.

[FR Doc. 80-10295 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Natural Gas From Tight Formations; Interim Notice to Lessees for Implementation of Section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA)

AGENCY: Geological Survey, Department of the Interior.

ACTION: Interim notice.

SUMMARY: Section 107(c)(5) of the NGPA provides for a ceiling price for high-cost natural gas when "* * * produced under such other conditions as the Commission determines to present extraordinary risks or costs."

Within the authority of NGPA, the Federal Energy Regulatory Commission (FERC) has issued the regulations 18 CFR 271.701 through 271.705 and 274.205(e), effective March 22, 1980, published in the **Federal Register** February 28, 1980 (45 FR 13414).

The stated FERC regulations provide criteria such that a given formation may be designated as a tight formation for purposes of natural gas pricing upon recommendation by a jurisdictional agency and approval by FERC. Once approved as a tight formation, wells, drilled and completed in the formation can be submitted to the jurisdictional agency for category determination, thus making the well's natural gas eligible for a given ceiling price. To implement these FERC regulations, and Interim Notice to Lessees, complete with guidelines for making application for a tight formation designation and for a tight formation well determination, is set forth below.

An operator of a Federal lease, either on public lands or on the Outer Continental Shelf (OCS) or on Indian allotted or tribal lands except for the Osage Reservation, Osage County, Oklahoma, may make application. The application shall be filed with the appropriate Oil and Gas Supervisor as indicated by the addresses listed in 18 CFR 274.501. Other provisions of the Notice to Lessees for Implementation of the NGPA, as amended February 14, 1980, and published in the **Federal Register**, February 22, 1980 (45 FR 12136), shall apply as appropriate, including use of the Geological Survey Form 9–2009.

DATES: The Interim Notice becomes effective April 7, 1980. Interested persons may submit comments until 60 days hence.

ADDRESSES: The address for commenting is: Chief, Conservation Division, Geological Survey, National Center, MS 650, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

FOR FURTHER INFORMATION: Contact Price McDonald, telephone (703) 860–7517, Billy Shoger, telephone (703) 860–7535, Conservation Division, Reston, Virginia.

SUPPLEMENTARY INFORMATION: The principal author is Price McDonald, Physical Scientist, Conservation Division, Reston, Virginia, telephone (703) 860–7517.

Interim Notice to Lessees

General Provisions

The regulation 18 CFR 271.705 provides that a jurisdictional agency may submit a written recommendation to the Federal Energy Regulatory Commission (FERC) for approval to the designation of a natural gas formation in a basin, field, or field area as a tight formation. By this Interim Notice, the Geological Survey proposes that its Area Oil and Gas Supervisors, respectively, shall make such a recommendation based on applications from one or more operators of Federal leased lands that a certain formation be designated as tight.

The application should encompass all lands within the areal limits of the formation, or a portion of the formation, but with the understanding that the Oil and Gas Supervisor's ruling can only apply to Federal, Indian, or OCS lands. Where appropriate, applications may be limited areally to formation segments which are definitively separated through faults or other barriers from adjoining segments.

Whatever the case, support data from all lands should be furnished to the Suprevisor and to the State, when multiple agencies are involved, in order to provide information without land gaps for the formation being examined. This will permit completed applications to be submitted simultaneously to the appropriate agencies when State or private lands are intermixed with Federal, Indian, or OCS lands.

Operator Requirements for a Formation Designation

The requirements below are for the application and support data to be supplied for designation that a formation is tight. The requirements are drawn from FERC regulation 18 CFR

271.705. Two copies of the support data are necessary.

All such data shall be supplied, if reasonably available; however, by Office of Management and Budget Guidelines no data can be required which has been submitted before for another purpose. If an operator prefers not to voluntarily submit the data again, he/she shall so indicate that the data by subject matter and date is on file with the Supervisor.

(1) A transmittal letter formally requesting that a given formation or portion of a formation be designated as tight.

(2) A lease or field map showing the areal extent of the formation as appropriate and the areal extent of the application.

(3) A structure map and well cross sections of the formation of interest, in parts, as necessary to be readable.

(4) A list showing all wells which have produced natural gas from the formation, with their locations and formation top depths respectively. Such a listing may be omitted if the required data is entered legibly on the map required under number three above.

(5) Geographical and geological descriptions of the formation, including specific mention of the formation's location and development, rock texture, porosity, homogeneity, pore volume, saturation, thickness, dip, areal limits, and faults and other barriers.

(6) Geological and engineering data, including core analyses, well log interpretations, transient pressure information, well flow tests (before fracing), drill stem tests, and other tests or surveys useful for, and perhaps resulting in, permeability estimation.

(7) The means for determining that development of the formation will not adversely affect freshwater aquifers that may be used for domestic or agricultural water supply.

(8) The name, size, and cost of any currently anticipated treatment or other action considered to be an enhanced recovery technique.

(9) The expected production increase from the enhanced recovery actions above. Also, the data, experiences, and reasoning which lead to such expectations.

(10) An estimate of the average in situ gas permeability throughout the pay section with basic data, calculations, and reasoning. If an average is inappropriate, indicate the permeability by location with calculations and reasoning. If data is lacking, indicate the basis for expecting the permeability to not exceed 0.1 millidarcies.

(11) The expected stabilized production rate prior to stimulation, using the depth table supplied under 18 CFR 271.705.

Operator Requirements for a Well Determination

Once FERC approves a designated formation as tight, an operator may submit a well application for category determination in accordance with 18 CFR 274.205(e). The operator shall file by the guidelines of the Notice to Lessees for Implementation of the NGPA, issued February 14, 1980, and published in the **Federal Register**, February 22, 1980 (45 FR 12136), except for the support data which shall be enclosed with the front page of the Form 9–2009, as follows:

For Section 107(c), High-Cost Natural Gas (Tight Formation). Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor.

1. Form FERC 121, Application for Determination of Maximum Lawful Price Under the Natural Gas Policy Act. ____
2. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____
3. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____
4. Complete a or b as follows:
   a. *New Onshore Wells*
      (1) 2.5-mile test:
      Form 9–330, Well Completion or Recompletion Report and Log. ____
      Directional drilling survey. ____
      A plat locating and identifying the well of interest and any other well within a 2.5-mile radius which produced natural gas after January 1, 1970, and before April 20, 1977. ____
      The oath statement as per 18 CFR 274.202(c)(1). ____
      (2) 1,000 feet deeper test:
      Form 9–330, Well Completion or Recompletion Report and Log. ____
      Directional drilling survey. ____
      A plat locating and identifying the well of interest and any other well within a 2.5-mile radius which produced natural gas after January 1, 1970, and before April 20, 1977, including identification of all marker wells and specific identification of the deeper marker wells which may be critical to the application. ____
      A listing of the deeper marker wells with elevations and completion locations. ____
      The oath statement as per 18 CFR 274.202(c)(2). ____
   b. *New Onshore Production Wells*
      Form 9–330, Well Completion or Recompletion Report and Log. ____
      A plat locating and identifying the well of interest and the outline of the proration unit. Also, identification and explanation of any other wells within the proration unit. ____
      A copy of the State Spacing Order, or, as applicable, the appropriate reference to a State regulation and/or a Federal unit agreement. ____
      For a new well which was spudded on or after February 19, 1977, and drilled as an additional well into an existing proration unit, a copy of the record developed prior to the commencement of drilling (as reasonably possible to do so), with geological and engineering support data included, sufficient to support a finding that the new well is necessary. Also, support data acquired after commencing of drilling, as appropriate. ____
      The oath statement as per 18 CFR 274.204, except for the part under (d)(1). ____
5. A structure map with the well of interest identified as having penetrated the tight formation and being completed within its approved limits ____
6. Well log heading plus a section sufficiently long to clearly define the top and bottom of the designated tight formation and to show the completed interval. ____
7. Additional statements under oath as prescribed by 18 CFR 274.205(e). ____
8. Other: ____

H. William Menard,

Director.

[FR Doc. 80–10414 Filed 4–4–80; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

Nevada; Amendment and Republication of Proposed Withdrawal

March 28, 1980.

Notice of the Fish and Wildlife Service (formerly the Bureau of Sport Fisheries and Wildlife), Department of the Interior, application for withdrawal of 70,000 acres of public land to expand the Desert National Wildlife Range and to withdraw the entire range from entry under the mining laws, but not the mineral leasing laws was published as **Federal Register** document 74–7022 on page 11316 on March 27, 1974 and document 74–4474 on page 7474 February 26, 1974.

The applicant agency has amended the application to expand the Desert National Wildlife Range by eliminating 6,109 acres from the proposed withdrawal. The public land proposed for withdrawal is now described as follows:

Mount Diablo Meridian, Nevada

T. 8 S., R. 61 E., (partially unsurveyed)
  Secs. 8 and 9, all;
  Sec. 10, W½, W½E½;
  Sec. 14, W½SW¼SW¼;
  Sec. 15, NW¼NE¼NE¼, S½NE¼NE¼, S½NE¼, NW¼NE¼, NW¼, S½;
  Sec. 16 to 22, incl., all;
  Sec. 23, W½NW¼, S½SE¼NW¼, NW¼SE¼NW¼, SW¼;
  Sec. 25, SW¼NW¼, NW¼SW¼, S½SW¼;
  Sec. 26 to 35, incl., all;
  Sec. 36, NW¼NE¼, S½NE¼, NW½, S½.
T. 8 S., R. 62 E.,
  Sec. 31, lots 3, 4, SE¼SW¼.
T. 9 S., R. 62 E.,
  Secs. 10, 11, 14, 15, 22, 23, 26, 27, 34 and 35, those portions lying between the east boundary of the existing Desert National Wildlife Range (D.N.W.R.) to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93.

T. 10 S., R. 62 E.,
Secs. 1, 2, 12, 13 and 24, those portions lying between the east boundary of the existing D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93.
Sec. 11, all;
Sec. 14, NE¼, NE¼NW¼, SW¼SE¼;
Sec. 23, SE¼NE¼, W½NE¼, E½SE¼;
Sec. 25, SW¼SW¼;
Sec. 36, that portion lying between the east boundary of the existing D.N.W.R. to 1,200 feet west of the westerly line of right-of-way of U.S. Highway 93.
T. 11 S., R. 62 E.,
Sec. 1, that portion lying between the east boundary of the existing D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93.
T. 11 S., R. 63 E.,
Secs. 18, 19, 30 and 31, those portions lying between the east boundary of the D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93.
T. 12 S., R. 63 E.,
Secs. 6, 7, 18, 19, 29, 30 and 32, those portions lying between the east boundary of the D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93;
Sec. 31, all.
T. 13 S., R. 63 E.,
Secs. 5, 8, 17, 20, 28, 29 and 33, those portions lying between the east boundary of the D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93;
Secs. 6, 7, 18, 19, 30, 31 and 32, all.
T. 13½ S., R. 63 E., (unsurveyed)
Secs. 31 and 32, all;
Sec. 33, that portion lying between the east boundary of the D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93.
T. 14 S., R. 63 E., (unsurveyed)
Secs. 4, 9, 16, 21, 28 and 33, those portions lying between the east boundary of the D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93;
Secs. 5 to 8, incl., 17 to 20, incl., 29 to 32, incl., all.
T. 15 S., R. 63 E.,
Secs. 3, 4, 10, 15, 22, 27 and 34, those portions lying between the east boundary of the D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93;
Secs. 5 to 9, incl., 16 to 21, incl., 28 to 33, incl., all.
T. 16 S., R. 63 E.,
Secs. 3, 4, 9, 16, 20, 21, 29 and 32, those portions lying between the east boundary of the D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93;
Secs. 5 to 8, incl., 17, 18, 19, 30 and 31, all.

The lands described aggregate approximately 54,950 acres.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

The applicant agency amended the original proposed withdrawal on July 24, 1974 by deleting 8,940.54 acres from the application. On January 17, 1980 the application was amended again by deleting 6,109.09 acres. All lands deleted from the application are no longer segregated. These amendments reduce the original proposed withdrawal by 15,049.63 acres. A public hearing regarding the original proposed withdrawal was held on July 10, 1974 in Las Vegas.

All correspondence in connection with this withdrawal should be directed to the Bureau of Land Management, Department of the Interior, Chief, Division of Technical Services, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Division of Technical Services.

[FR Doc. 80-10355 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-84-M

Water and Power Resources Service

Contract Negotiations With the Washington Water Power Co. and Boise Cascade Corp.; Intent To Begin Negotiations for Water Service Contracts

The Department of the Interior, through the Water and Power Resources Service, intends to initiate negotiations of terms and conditions for separate 40-year water service water contracts with the Washington Water Power Company (WWP) and Boise Cascade Corporation. The service would be provided from storage available in Franklin D. Roosevelt (FDR) Lake, Washington, which has an active capacity of about 5.2 million acre-feet of water. FDR Lake is formed by Grand Coulee Dam on the Columbia River in Eastern Washington.

WWP needs about 1,000 acre-feet of water per year to operate a proposed 40 megawatt powerplant. The powerplant, located near the town of Kettle Falls, Washington, would be fueled by wood waste, a by-product of sawmills located in the surrounding area. Such fuel would be hauled to the Kettle Falls plant instead of being burned at the sawmills.

Boise Cascade needs about 300 acre-feet of water for use at an existing plywood plant and small log sawmill also located near Kettle Falls. The water is used in a wet scrubber to control air pollution emissions from a fluidized bed waste wood combustor.

Statutory authority for each contract would be section 9(c)(2) of the Reclamation Project Act of 1939. Compliance with the National Environmental Policy Act of 1969 is a prerequisite to executing contracts with each of the entities. The proposed contracts will specify quantities of water, water charges, and other terms and conditions consistent with Reclamation law and Service policy.

The public may observe any negotiating sessions. Advance notice of such meetings, if any, will be furnished on request. Requests must be in writing and submitted at least 1 week prior to any session. Requests must specify that the requesting party is interested in the proposed contract(s) with WWP or Boise Cascade. Inquiries should be addressed to the Regional Director, Attention Code 440, Water and Power Resources Service, 550 West Fort Street, Box 043, Boise, Idaho 83724.

Proposed draft contracts will be made available for public review following completion of contract negotiations. Thereafter, a 30-day period will be allowed for receipt of written comments from the public. Unless significant public interest in the proposed contract negotiations is demonstrated in response to this notice, announcement of availability of the draft contracts will be limited to those parties who have expressed an interest therein.

All written correspondence concerning the proposed contract will be made pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

For further information on scheduled negotiating sessions and copies of the proposed contract form, please contact Mr. Richard Mr. Rigby, Water and Power Resources Service, Repayment and Statistics Branch, Division of Water, Power, and Lands at the above address, or telephone (208) 384-9503.

Dated: March 31, 1980.

David R. Schuster,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-10192 Filed 4-4-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80–6968 appearing at page 14673 in the issue for Thursday, March 6, 1980, on page 14682, in the second column, the heading "Volume No. J" should be corrected to read "Volume No. 5".

BILLING CODE 1505–01–M

Motor Carrier Temporary Authority Applications

Important notice: The following are notices of filing of applications for temporary authority under 49 U.S.C. § 10928 of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) 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 Regional 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. 21

(Republication)

MC 146808 (Sub-1TA), filed May 8, 1979. Applicant: D & B TRUCKING, INC., d.b.a. ALCO EXPRESS, 4800 West Jefferson, Detroit, MI 48209. Representative: James A. Russo, 4800 West Jefferson, Detroit, MI 48209. By supplemental decision of March 26, 1980, the Motor Carrier Board granted the petition of applicant and approved temporary authority to transport iron and steel articles, between points in the Lower Peninsula of Michigan, restricted to the transportation of shipments having a prior or subsequent movement beyond the State of Michigan. The notice of this application published in the **Federal register** issue of June 26, 1979, inadvertently omitted "iron" from the commodity description, and did not reflect the restriction sought by the applicant. Any interested person may file a petition for reconsideration within 20 days from the publication of this notice. Send petitions for reconsideration to: The Secretary, Team 5, Room 2367, Interstate Commerce Commission, Washington, D.C. 20423.

Notice No. F–15

The following applications were filed in Region 1.

Send protests to: Complaint/Authority Center, I.C.C., 150 Causeway Street, Room 501, Boston, MA 02114.

MC 78687 (Sub-1–4TA), filed March 24, 1980. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: Lester R. Gutman, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Lumber and forest products,* from Sussex and Dinwiddie Counties and the City of Richmond, VA and Elizabeth City and Weldon, NC to Newark, NJ, points in NY, and points in PA on and east of U.S. Hwy 15. Supporting shipper: Payne & Gunderson Lumber Co., Inc., P.O. Box 1149, Petersburg, VA 23803.

MC 138802 (Sub-1–1TA), filed March 28, 1980. Applicant: SUMMIT TOWN TRANSIT RENTAL, INC., 211 Wilmer Street, P.O. Box 526, Glassboro, NJ 08028. Representative: George Bell, 15A Park Crest Apartments, P.O. Box 526, Glassboro, NJ 08028. *Passengers and baggage, common carrier* over regular routes between Clayton, NJ and Philadelphia, PA over the following route: Commencing at the intersection of NJ Route 47 and Clayton Ave. in Clayton, NJ and traveling north of NJ Route 47 to the intersection of NJ Route 47 and Heston Road in Glassboro, NJ; west on Heston Road to Main Street, then north on Main Street to and over Broadway through Pitman, NJ to Lambs Road; east on Lambs Road to NJ Route 47 in Hurffville, NJ, then north on NJ Route 47 to and over NJ Route 41 to the intersection of NJ Route 41 and County House Road in Deptford Township; west on County House Road to and over Almonesson Road to Clements Bridge Road, then east on Clements Bridge Road to NJ Route 42; north on NJ Route 42 to and over Walt Whitman Bridge into Philadelphia, PA, then south on U.S. Route I–95 to and over South Broad Street into the Philadelphia Naval Shipyard to Porter Street; then south on Porter Street to Seventh Street Terminal; return via same route. Supporting shipper: There are twelve (12) supporting copies attached to application.

MC 148867 (Sub-1–1TA), filed March 28, 1980. Applicant: TRANS-ADVO, INC., 239 Service Road, West, Hartford, CT 06101. Representative: Frank M. Cushman Associates, 36 South Main Street, Sharon, MA 02067. *Contract carrier,* irregular routes, *materials, machinery, equipment and supplies used in the course of providing the services of direct mail advertising and hand distribution advertising* between all points and places in the 48 contiguous U.S. and DC in interstate commerce; restricted to service on behalf of Advo-System, Inc., 239 Service Road, West, Hartford, CT 06101. Supporting shipper: Advo-System, Inc., Hartford, CT.

MC 148607 (Sub-1–1TA), filed February 7, 1980. Applicant: MAIN LINE TRANSPORT, INC., 184 Read Street, Portland, ME 04112. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101. *Paper in truckload quantities,* from Jay, ME to Portland, ME. Supporting shipper: International Paper Company in New York City, NY 10017.

MC 150030 (Sub-1–1TA), filed February 7, 1980. Applicant: NICHOLAS POLSELLI, d.b.a. TEMPERATURE CONTROL TRANSPORT, 74 South Street, Troy, NH 03465. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *(1) Meats, smoked, and (2) cured meats in containers in vehicles equipped with mechanical refrigeration,* from the facilities of Colonial Provision Co., Inc., at Boston, MA to points in FL. Supporting shipper: Colonial Provision Co., Inc., Boston, MA 02125.

MC 2860 (Sub-1–5TA), filed March 26, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Applicant's representative: Gerald S. Duzinski, (same address as

applicant) *canned or preserved foodstuffs* from the facilities of Heinz USA at or near Holland, MI to points in the states of VA, MD, DE, NJ, DC, PA, NY, CT, MA, RI, ME, NH, VT, and in each case, restricted to traffic originating at the named facilities and destined to the named states. Supporting shipper: Heinz USA, Division of H. J. Heinz Co., Pittsburgh, PA.

MC 10875 (Sub-1–1TA), filed March 26, 1980. Applicant: BRANCH MOTOR EXPRESS CO., 114 Fifth Avenue, New York NY 10011. Applicant's representative: G. G. Heller (same address as applicant). *Carburetors,* from the facilities of Walbro Corporation at Cass City MI, to the facilities of Homelite Division, Textron Corporation, at Gastonia, NC. Supporting shipper: Homelite Division, Textron Corporation, Gastonia, NC.

MC 144122 (Sub-1–1TA), filed March 19, 1980. Applicant: CARETTA TRUCKING, INC., S 160 Route 17, Paramus, New Jersey 07652. Applicant's representative: Joseph Carretta, President, S 160 Route 17, Paramus, New Jersey 07652. *Cleaning, washing, buffing or polishing compounds, textile softeners, lubricants, hypochlorite solution, deodorants or disinfectants, paints, stains or varnishes. Materials, equipment and supplies used in the distribution, manufacture and sale there.* (Except commodities in bulk) Between points in the United States (Except AK and HI.) Restricted to freight originating at or destined to the facilities of Economic Laboratories Inc. Supporting shipper: Economics Laboratory, Inc., Osborn Blvd., St. Paul, Minn. 55102.

MC 114896 (Sub-1–3TA), filed March 21, 1980. Applicant: PUROLATOR ARMORED INC., 255 Old New Brunswick Road, Piscataway, NJ 08854. Applicant's representative: Carl T. Kessler (same address as applicant). *Contract carrier,* over irregular routes, transporting *precious metals,* moving in armored vehicles under armed guard; Between Indianapolis, IN, Chicago, IL and its Commercial Zone, Newark, NJ, Union, NJ and Plainville, MA. Supporting shipper: Logistics Operations, General Motors Corporation, Suite 1300—Top of Troy, 755 West Big Beaver Road, Troy, Michigan 48084.

MC 52574 (Sub-1–1TA), filed March 20, 1980. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, NJ 07111. Applicant's representative: Michael R. Werner, 167 Fairfield Road, Fairfield, NJ 07006. *Contract carrier* over irregular routes, transporting *Bakery products,* from Wayne, NJ to Navarre and Martins Ferry, OH, under continuing contract(s) with Drake Bakeries, Division of Borden Company. Supporting shipper: Drakes Bakeries, Division of Borden Company, 75 Demarest Drive, Wayne, NJ 07470.

MC 144428 (Sub-1–1TA), filed March 25, 1980. Applicant: TRUCKADYNE, INC., Route 16, Mendon, MA 01756. Representative: Joseph A. Reed, Pres., Truckadyne, Inc., Route 16, Mendon, MA 01756. *Contract carrier,* irregular routes. *Confectionery, bakery goods, candy, foodstuffs and materials and supplies used in the manufacture, processing, distribution and sale of such commodities (except commodities in bulk).* Between points in CA, CO, CT, FL, GA, IL, MA, MI, MO, NJ, NY, NC, OR, PA, RI, SC, TN, TX, VA, WA, under a continuing contract with Nabisco, Inc. Supporting shipper: Nabisco Confections, Inc., 810 Main Street, Cambridge, MA 02139.

MC 123233 (Sub-1–2TA), filed March 25, 1980. Applicant: PROVOST CARTAGE, INC., 7887 Grenache Street, Ville d' Anjou, PQ, Canada H1J 1C4. Representative: J. P. Vermette (same address as applicant). *Fish oil, in bulk, in tank vehicles,* from the Ports of Entry on the International Boundary Line between the United States and Canada to Bayway, Elizabeth, Newark and Weehawken, NJ to Salem, Saugus and Somerville, MA; and to Pawtucket, RI. Supporting shippers: Agradex International LTD, 300 ST-Sacrement Street, Montreal, PQ, Canada H2Y 1X4; Wilbur-Ellis Co. of Canada LTD, 701 Evans Ave, Suite 909, Etobicoke, ON, Canada, M9C 1A3; National Sea Foods LTD, P.O. Box 2130, Halifax, NS, Canada B3J 3B7.

MC 144598 (Sub-1–1TA), filed March 25, 1980. Applicant: C & J TRANSPORT, INC., P.O. Box 42, North Vassalboro, MA 04962. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., N.W., Washington, D.C. *Coal,* from PA and WV to points in ME located on and south of Maine State Highway 16. Supporting shipper(s): John P. Cullinan Co., 6 Charles Street, S. Parris, ME 04281.

MC 127524 (Sub-1–1TA), filed March 25, 1980. Applicant: QUADREL BROS. TRUCKING CO, INC., 1603 Hart Street, Rahway, N.J. 07065. Representative: David L. Middleton (same address as above). *Tomato paste in bulk in tank vehicles,* from the facility of Hunt-Wesson Foods, Inc. Bridgeton, N.J. to Hanover, PA and Hunt Valley, MD. Supporting shipper: Hunt-Wesson Foods, Inc. of Fullerton, CA 92634.

MC 61294 (Sub-1–1TA), filed March 20, 1980. Applicant: PEOPLE'S FUEL AND TRUCKING, INC., 73 City Hall Avenue, Gardner, MA 01440. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *Coal, anthracite and scrap metals,* in bulk, in dump vehicles, between points in Worcester County, MA, on the one hand, and, on the other, points in RI, CT, NY, NJ and PA. Supporting shippers: Garbonse Metal Company, 155 Mill Street, Gardner, MA 01440; Seaman Paper Company, Main Street, Otter River, MA 01436 and, Farmers' Exchange, 15 Elm Street, Townsend, MA 01469

MC 73866 (Sub-1–1TA), filed March 24, 1980. Applicant: LOUIS J. GARDELLA, INC., 111 Harbor Avenue, Norwalk, CT 06852. Representative: Winthrop E. DeLapp (same address as above). *Liquor, malt, ale, beer, beer tonic, porter, stout, in inner containers, in boxes, in bulk, in barrels or drums,* from Merrimack, NH, on the one hand, to, on the other hand, Hartford, Wallingford, West Haven, and Orange, CT. Supporting shipper: Dichello Distributors, Inc. of West Haven, CT.

MC 150384 (Sub-1–1TA), filed March 25, 1980. Applicant: AVON DISPATCH, INC., 240 Ash Street, Reading, MA. 01867. Representative: Joseph T. Bambrick, Jr. Esq., P.O. Box 2087, Sebastian, FL 32958. (1) *Uncrated office machine and equipment* (2) *Materials, supplies and parts used in the manufacture,installation, and distribution of the commodities named in (1) above,* Between points in CT, ME, MA, NH, RI, and VT. Supporting shipper: Burroughs Corporation of Lexington, MA, A.B. Dick Company of Waltham, MA, Vydec, Inc., of MA.

MC 134197 (Sub-1–1TA), filed March 25, 1980. Applicant: JACKSON AND JOHNSON, INC., Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice PK, Webster, NY 14580. *Foodstuffs* (except in bulk), *materials, supplies, and equipment used in the distribution thereof,* in straight or mixed shipments, between the facilities of Lincoln Foods, Inc., at Lawrence, MA; on the one hand, and, on the other, all points in NY State. Supporting shipper: Lincoln Foods, Inc. of Lawrence, Mass.

MC 112750 (Sub-1–2TA), filed March 25, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11042. Representative: Elizabeth L. Henoch (same address as Applicant). *Contract,* irregular *Commercial Papers, documents and written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, between DeFuniak Springs, AL, on the one hand,

and, on the other, Mobile, AL. Supporting shipper: Financial Data Center of Mobile, 2248 Michigan Avenue, Mobile, AL 36615.

MC 59640 (Sub-1-2), filed March 24, 1980. Applicant: PAULS TRUCKING CORP., Three Commerce Drive, Cranford, NJ 07106. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. *Contract carrier,* irregular routes, *Chemicals, acids, drugs, medicines, toilet preparations, shampoo, animal feeds, sugar, and printed matter (except commodities in bulk),* between Nutley and Belvidere, NJ, on the one hand, and, on the other, Decatur, GA; Dallas and Fort Worth, TX; San Leandro, Fresno, Lyoth, Los Angeles, and Bell, CA; Des Plains, IL; and Ames, IA, under a continuing contract(s) with Hoffmann-LaRoche, Inc., Nutley, NJ. Supporting shipper: Hoffmann-LaRoche, Inc., Nutley, NJ.

MC 129913 (Sub-1-1TA), filed March 25, 1980. Applicant: W. C. DEAN SR. TRUCKING, INC., 495 South Road, Poughkeepsie, New York 12601. Representative: Neil D. Breslin, Egquire, Garry, Cahill, Edmounds and Breslin, 600 Broadway, Albany, New York 12707, 518-465-3391. *Contract carrier.* Irregular routes. *Battery trailers, diesel engines, batteries, central office equipment, generators, traliers, and materials and supplies,* between Greenwich, CT, on the one hand, and, on the other, all points in the following counties in New York State: Dutchess, Greene, Orange, Sullivan, Ulster, Columbia, Delaware, Putnam, Rockland, Westchester, Queens, Suffolk, and Nassau, under a continuing contract with New York Telephne Company, 500 Westchester Avenue, White Plains, New York 10604. Supporting shipper: New York Telephone Co., White Plains, NY.

MC 148890 (Sub-1-1TA), filed March 25, 1980. Applicant: SENTRY ARMORED COURIER CORP., 3548 Boston Road, Bronx, New York 10469. Representative: Ronald Shapss, Esq., 450 Seventh Avenue, New York, N.Y. 10001. *Contract carrier,* Irregular routes, *Coin and Currency,* between New York, N.Y. on the one hand, and, on the other, points in Morris, Somerset, Sussex, Warren and Hunterdon Counties, N.J., under a continuing contract with the Federal Reserve Bank of New York. Supporting shipper: Federal Reserve Bank of New York, New York, NY.

MC 147524 (Sub-1-1TA), filed March 11, 1980. Applicant: SINED LEASING, INC., 108 High Street, Mt. Holly, NJ 08060. Representative: Frank L. Newburger, III, Esquire, White and Williams, 17th Floor, 1234 Market Street, Philadelphia, PA 19107. *Products derived from corn and blends containing products derived from corn, in bulk,* From Clinton, IA; Lexington, NC; Frazier, PA; Chicago, IL ; Montezuma, NY. To Points in WI, IL, MI, IN, OH, PA NY, NJ, CT, RI, MA, NH, VT, DE, MD, VA, DC, WV, NC, SC, GA, KY, FL and TN. Supporting shipper: Clinton Corn Processing Company, Clinton, IA 52732.

MC 148963 (Sub-1-1TA), filed March 21, 1980. Applicant: MR. LAKHU JETHANI, an individual d.b.a. RAVI TRANSPORT, 42-55 Colden Street, Flushing, New York 11355. Applicant's Representative: Mr. Lakhu Jethani, 42-55 Colden Street, Flushing, New York 11355. *Passengers and their baggage,* in special (or charter) operations in round-trip sightseeing, pleasure, and educational tours, beginning and ending at points in NYC, NY and extending to points in NY, NJ, PA, MD, IL and FL.

MC 145115F (Sub-1-1TA), filed March 19, 1980. Applicant: N.Y. N.J., CONN., FREIGHT & MESSENGER CORP., 351 West 38th Street, New York, New York 10001. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, New York 10001. *Such merchandise as is dealt in by retail department stores.* Between the New York, NY commercial zone and the Los Angeles, CA, commercial zone, on the one hand, and, on the other, Portland, OR. Under contract with Meier & Frank, Inc. Supporting shipper: Meier & Frank, Inc.

MC 147242 (Sub-1-1TA), filed March 21, 1980. Applicant: 12-90 PLAZA CORP. t.a., PLAZA FREIGHT TRANSPORT, 12-90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, Esq., 888 Seventh Avenue, New York, NY 10019. *Contract carrier:* irregular routes: *Cleaning compounds, chelates, chemicals and dyestuffs o/t coal tar; drugs, medicines, toilet preparations, deodorants and disinfectants; herbicides and insecticides, agricultural and o/t agricultural; plastics, resins and paints and photographic paper and film* between points in NJ, NY and RI on the one hand and, on the other, points in CA, IL, KS, MI, MO, OR and TX. Supporting shipper: Ciba-Geigy Corporation, Ardsely, NY 10502.

MC 60186 (Sub-1-1TA), filed March 24, 1980. Applicant: NELSON FREIGHTWAYS, INC., 47 East Street, Rockville, Ct. 06066. Representative: Clifford J. O. Nelson (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 vehicles and those requiring special equipment.) Between Alexandria, VA and its Commercial Zone, on the one hand, and on the other, points in DE, MD, NY, PA and VT. Restricted to the transportation of shipments having a prior or subsequent movement by rail. Supporting shippers: There are 8 statements in support attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 150238 (Sub-1-1TA), filed March 20, 1980. Applicant: ARTHUR MOODY d.b.a. S.W.D. TRANS., Main Street, P.O. Box 731, Southwest Harbor, ME 04679. Representative: Mr. Arthur Moody, (same as above applicant). *Contract carrier* irregular routes *commodities for recycling* (glass, plastic, scrap aluminum, scrap metal and paper products) shipped whole, crushed, shredded, baled or flatened under a bilateral contract with E.M.R., Inc., from Southwest Harbor, Me, to Dayville, CT, Taylor, MI, Atwood, IN, Johnsonville, SC, and Cranston, RI. Supporting shipper: E.M.R., Inc. Southwest Harbor, ME.

MC 141245 (Sub-1-1TA), filed March 24, 1980. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington VT 05401. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington D.C. 20006. *Calcium Chloride,* in 100# bags and in bulk from the Facilities of Allied Chemical Corp. at or near Solvay NY to points in Vermont and New Hampshire. Supporting shipper: James J. Lowe, Sales Broker 68 Fairfield Street St. Albans VT 05478.

MC 118803 (Sub-1-1TA), filed March 19, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 45 Gilpin Avenue, Hauppauge, NY 11787. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract,* irregular, *Dry plastic materials,* except in bulk, and *materials, supplies and equipment* used in the manufacture, distribution and sale thereof, except in bulk, (1) between points in IA, IL, NJ, NY, OH, and WV, on the one hand, and, on the other, points in the United States in and east of MN, IA, NE, KS, OK and TX, and (2) between points in TX and LA, on the one hand, and, on the other, points in the United States in and east of MN, IA, NE, KS, OK, AR and LA. Supporting shipper(s): Polymer Materials div. of Georgia-Pacific Corporation, 100-120 Adams Blvd., Farmingdale, NY 11735. Send protests to: ICC Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 139349 (Sub-1-2TA), filed March 18, 1980. Applicant: E Z FREIGHT LINES, 70 E. 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park,

NJ 08904. A *contract carrier,* irregular route transporting: *Foodstuffs, Health & Beauty Aids, cleaning compounds, kitchen gadgets, dog food, coffee, milk, tea, candy, nuts* and *cookies,* from Chicago, IL to points in AL, CT, GA, MD, MA, MS, NY, NC, OH, and PA under a continuing contract with Topco Associates, Inc. Supporting shipper: Topco Associates, Inc., 7711 Gross Point Road, Skokie, IL 60077.

MC 119552 (Sub-1–1TA), filed March 21, 1980. Applicant: JTL, INC., 49 Rosedale Street, Providence, RI 02903. Representative: Ronald N. Cobert, Esquire, Suite 501, 1730 M Street, NW, Washington, DC 20036. *Contract carrier,* irregular routes, *Paper* and *paper products,* and *material, equipment* and *supplies* used in the manufacture and distribution of paper and paper products, between Dallas, TX, on the one hand, and, on the other, AR, AL, CA, CO, CT, FL, IL, KS, LA, MD, MI, MS, MO, NM, OK, TN, and UT. Restriction: The operations authorized herein are to be limited to a transportation service to be performed under a continuing contract or contracts with Simkins Industries, Inc. Supporting shipper: Simkins Industries, Inc.

MC 150290 (Sub-1–2TA), filed March 17, 1980. Applicant: MIDLAND TRANSPORTATION CO., INC., 72 West 45th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Lighting fixtures,* and *lamps, plastic articles, and materials, equipment, and supplies* used in the manufacture and sale thereof, except in bulk between Fairlawn, Clifton, North Bergen, and Secaucus, NJ, New York, NY, Elk Grove, IL, and Warren, OH, on the one hand, and, on the other, points in CA, GA, IL, IN, KY, MA, OH, PA, RI and TX. Supporting shipper(s): Duro Test Corporation, Duro Tite Corporation and Tungsten Products Corporation, 2321 Kennedy Boulevard, North Bergen, NJ 07047.

MC 78687 (Sub-1–4TA), filed March 24, 1980. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: Lester R. Gutman, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Lumber and forest products,* from Sussex and Dinwiddie Counties and the City of Richmond, VA and Elizabeth City and Weldon, NC to Newark, NJ, points in NY, and points in PA on and east of U.S. Hwy 15. Supporting shipper: Payne & Gunderson Lumber Co., Inc., P.O. Box 1149, Petersburg, VA 23803.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 150349 (Sub-II–1TA), filed March 20, 1980. Applicant: A & A TRUCKING CO., INC., 1013 Huron Trail, Jamestown, OH 45335. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. *Contract carrier:* irregular routes: *Paint, paint ingredients and materials, putty, caulking and glazing compounds, adhesive cement and glue (Except in bulk in tank vehicles), and adhesive tape,* between Dayton, OH, and Michigan City, IN, under a continuing contract with Dap, Inc., Dayton, OH. An underlying ETA seeks 90 days authority. Supporting shipper: Dap, Inc., 5300 Huberville Rd., Dayton, OH 45431.

MC 124111 (Sub-2–3TA), filed March 17, 1980. Applicant: OHIO EASTERN EXPRESS, INC., 300 West Perkins Ave., Sandusky, OH 44870. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. *General commodities (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between the facilities of Circle Airfreight Corp. at Romulus, MI, and the facilities of Pan Am Airlines at Jamaica, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Circle Airfreight Corp., 6930 Metroplex Dr., Romulus, MI.

MC 52614 (Sub-II–1TA), filed March 20, 1980. Applicant: R. S. POWELL, INC., P.O. Box 338, Madison Heights, VA 24572. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract;* irregular: *Cast iron pipe, fittings and accessories,* from Radford, VA to pts. in MC, SC, GA, WV, TN and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Pipe Products Co. 2000 Spring Rd., Oak Brook, IL 60521.

MC 27817 (Sub-2–1TA), filed October 3, 1979. Applicant: H.C. GABLER, INC., Rd 3, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Paper bags, NOI,* from Charleston, SC to Baltimore, MD; Philadelphia, PA; New York, NY; and Boston, MA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amstar Corp., 1251 Avenue of Americas, New York, NY 10020.

MC 69052 (Sub-II–3TA), filed March 20, 1980. Applicant: REED TRUCKING CO., INC., P.O. Box 216, Milton, DE 19968. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue & 13th St., N.W., Washington, D.C. 20004. *Flour (except in bulk),* from Buffalo, NY, to pts. in Wicomico and Worcester Counties, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robinson Chemical Corp., P.O. Box 264, Cambridge, MD 21613.

MC 114569 (Sub-II–17TA), filed March 21, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Charcoal briquettes,* (1) From Salem (Howes), MO, to IL, IN, OH, and MI, (2) From Kenbridge, VA to DC, MD, PA, NY; and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cupples Co. Mfrs., 1034 South Brentwood Blvd. Suite 1660, St. Louis, MO 63117.

MC 11569 (Sub-II–16TA), filed March 21, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Foodstuffs,* from Lodi, Green Bay, Eau Claire, WI to the facilities of Weis Markets, Inc. in Northumberland County, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weis Markets, Inc., 1000 South 2nd St., Sunbury, PA 17801.

MC 146032 (Sub-II–1TA), filed March 20, 1980. Applicant: SKYCAB, INC., 137 N. 4th St., Phila., PA 19106. Representative: Steven Tannenbaum, 133 N. 4th St., Phila., PA 19106. *Medical test kits, (except in bulk),* between the facilities of Roche Diagnostics at Belleville, NJ and points in the US (an non-radial authority), for 180 days. An underlying ETA seeks 90 days authority. Restricted to traffic moving on Bills of lading of Roche Diagnostics. Supporting shipper(s): Roche Diagnostics, 1 Franklin Ave., Belleville, NJ 07109.

MC 94265 (Sub-2–5TA), filed March 20, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Rte. 460 W., Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs,* from the facilities used by Seabrook Foods, Inc., at or near Alamo and Brownsville, TX, to the facilities used by Seabrook Foods, Inc., at points in GA, for 180 days. Supporting shipper(s): Seabrook Foods, Inc., 111 N. 7th St., Alamo, TX 78516.

MC 94265 (Sub-2–6TA), filed March 20, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs,* from facilities of and used by Texsun Corp. at or near Weslaco, TX to points in AR, AL, CO, IL, IN, KS, KY, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN and WI for 180 days. Supporting shipper(s): Texsun

Corp., 800 West Highway 83, Weslaco, TX 78596.

MC 110683 (Sub-169TA), filed December 5, 1979, originally published in the **Federal Register** of January 28, 1980. Applicant: SMITH'S TRANSFER CORP., P.O. Box 1000, Staunton, VA 24401. Representative: W. D. Kirkpatrick (same as applicant) and Francis W. McInerny, 1000 16th St., NW., Washington, D.C. 20036. *Common; regular: General commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment* Between Des Moines, IA, and Springfield, MO, serving no intermediate points: From Des Moines over U.S. Hwy 65 to Springfield and return over the same route. Between Davenport, IA, and Springfield, MO, serving all intermediate points in Iowa: From Davenport over U.S. Hwy 61 to its junction with MO Hwy 19, then over MO Hwy 19 to its junction with U.S. Hwy 54, then over U.S. Hwy 54 to its junction with MO Hwy 73, then over MO Hwy 73 to its junction with MO Hwy 32, then over MO Hwy 32 to its junction with U.S. Hwy 65, then over U.S. Hwy 65 to Springfield and return over the same route. Between Paducah, KY, and Springfield, MO, serving no intermediate points: From Paducah over U.S. Hwy 60 to Springfield and return over the same route. Between Paducah, KY, and Little Rock, AR, serving no intermediate points: From Paducah over U.S. hwy 60 to its junction with U.S. Hwy 67, then over U.S. Hwy 67 to Little Rock and return over the same route. Supporting shipper(s): There are 31 supporting shippers. Their statements may be examined at the ICC regional office in Philadelphia, PA. The purpose of this re-publication is to show the entire scope of authority requested which was published incorrectly in the first publication.

Note.—No duplicating authority sought. Tacking and interlining is intended. This application is directly related to MC-F-14155.

MC 113666 (Sub-188TA), filed October 24, 1979. Originally published in the **Federal Register** of March 12, 1980. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Rd., Freeport, PA 16229. Representative: Daniel R. Smetanick (same as applicant). *Grouting compounds, materials and supplies used in the production and installation of grouting compounds, except in bulk,* between Cincinnati, OH and Pekin, IL, on the one hand and, on the other, points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: U.S. Grout Corp., 3 West End Ave., Old Greenwich, CT 06870. The purpose of the re-publication is to show the correct destination which was previously published incorrectly.

MC 114969 (Sub-2-1TA), filed February 21, 1980. Originally published in the **Federal Register** of March 12, 1980. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, Milford, OH 45150. Representative: James M. Roudebush (same as applicant). *Fertilizer and fertilizer ingredients, in bulk and in bags,* from Terre Haute, IN to points in KY and IL; on and South of U.S. Rt. 40, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Estech General Chemicals Corp., 30 N. LaSalle St., Chicago, IL 62202. The purpose of this re-publication is to show the correct destination points which were previously published incorrectly.

MC 143267 (Sub-98TA), filed November 9, 1980. Originally published in the **Federal Register** of March 19, 1980. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156-15th St., NW, Washington, DC 20005. *Metal buildings, prefabricated building parts and materials and accessories used in the manufacture and installation there* (1) from the facilities of National Steel Products Co., Inc., at or near Monroe, LA, to points in the U.S. in and east of WI, IL, MO, AR, and LA; (2) from Ashland, KY, Baltimore and Sparrows Point, MD, Ecorse and Detroit, MI, Weirton, WV, Chicago, Alton, East St. Louis and Granite City, IL, St. Louis, MO, and Middletown, OH, to the facilities of National Steel Products Co., Inc., at or near Terre Haute, IN, and La Grange, GA, and (3) from Weirton, WV, Chicago and Granite City, IL, and Murrysville, PA, to the facilities of National Steel Proaducts Co., Inc., at or near Monroe, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: National Steel Products Co., Inc., P.O. Box 40490, Houston, TX 77040. The purpose of this re-publication is to show the correct destination points which were partially omitted in the first publication.

MC 562446 (Sub-2-1TA), filed February 15, 1980. Originally published in the **Federal Register** of March 12, 1980. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 N. 3rd St., P.O. Box 1146, Harrisburg, PA 17108. (1) *Automotive steering assemblies and parts,* and *(2) materials, supplies and equipment used in connection with or incidental to the manufacturing or distribution of said commodities (except in bulk),* between the facilities of R. H. Sheppard Co., Inc., at Hanover, PA and points in its commercial zone, on the one hand and, on the other, points in CT, DE, IA, IL, IN, KY, MA, MD, ME, MI, MO, NH, NJ, OH, PA, RI, TN, VA, VT, and WV. Restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations, for 180 days. Supporting shipper: R. H. Sheppard Co., Inc., 101 Philadelphia St., Hanover, PA 17331. The purpose of this re-publication is to show the restriction which was originally published incorrectly.

MC 145870 (Sub-2-3TA), filed March 19, 1980. Applicant: L-J-R HAULING, INC., P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 11th St., NW, Washington, DC 20001. *Mining and construction machinery and equipment, and parts therefor* between points in AL, GA, IL, IN, KY, MD, NC, OH, PA, SC, TN, VA, and WV. Restricted to transportation of traffic moving between the plantsites, storage facilities and job-sites of Coalfield Services, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Coalfield Services, Inc., Rt. #1, Box 31 N, Wytheville, VA 24382.

MC 107403 (Sub-2-14TA), filed March 19, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave. Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Liquied argon, in bulk, in shipper-owned trailers,* from Provo, UT to points in ID, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Liquid Air, Inc., One Embarcadero Center, Suite 1200, San Francisco, CA 94111.

MC 145125 (Sub-2-1TA), filed March 19, 1980. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., 109 Electric Ave., Lewistown, PA 17044. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Extruded aluminum products.* from the facilities of Cressona Aluminum Co. at or near Cressona, PA to Phoenix, AZ and points in the commercial zone thereof. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cressona Aluminum Co. Cressona, PA 17929.

MC 113828 (Sub-II-6TA), filed March 21, 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. *Sodium silicate* from Chester, PA to pts. in CT, DE, MA,

DC, MD, NJ, and NY for 180 days. Supporting shipper(s): PQ Corp., P.O. Box 840, Valley Forge, PA 19482.

MC 111611 (Sub-II–2TA), filed March 21, 1980. Applicant: NOERR MOTOR FRIEGHT, INC., 205 Washington Ave., Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. *Products and materials manufactured and/or distributed by FMC Corporation from its facilities at Newark, DE and/or Downingtown, PA* from the facilities of FMC Corporation at Downingtown, PA and/or Newark, DE to CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): FMC Corp., Prudential Plaza, Chicago, IL 60691.

MC 150406 (Sub-II–1TA), filed March 24, 1980.. Applicant: MOTOR DRAYAGE CO., INC., 5215 Salem Hills Ln., Cincinnati, OH 45230. Representative: Ronald J. Denicola, 1800 First National Bank Bldg., Cincinnati, OH 45202. *Contract; Irregular: Valve, valve parts and rough castings* from Cincinnati, OH to pts. in the U.S. for 180 days. Supporting shipper: Wm Powell Co., 2503 Spring Grove Ave., Cincinnati, OH 45214.

MC 150407 (Sub-II–1–TA), filed March 24, 1980. Applicant: SPECIAL SERVICE DELIVERY COMPANY, INC., 2514 Bridge Ave., Cleveland, Ohio 44113. Representative: David A. Turano, 100 East Broad St., Columbus, Ohio 43215. (1) *such commodities as are dealt in or used by manufacturers of photographic products (except commodities in bulk) and (2) cleaning compounds, toilet preparations, cosmetics, jewelry, food supplements, cooking utensils, and household and personal care products (except commodities in bulk)* between Cleveland, Columbus and Toledo, OH, and points in their respective commercial zones, on the one hand, and, on the other, points in OH, for 180 days. Restricted to traffic having a prior or subsequent movement in interstate commerce. An underlying ETA seeks 90 days authority. Supporting shippers: Eastman Kodak Company 1187 Ridge Road West, Rochester, NY 14650. Amway Corporation, 7575 East Fulton Rd., Ada, MI 49355.

MC 135170 (Sub-II–1–TA), filed March 24, 1980. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract Carrier, Irregular Route:* (1) *Containers, Paper and Paper Articles, and Plastic Articles,* from Hartsville, SC to points in VA, and (2) *Scrap Paper,* from points in VA to Hartsville, SC, under a continuing contract or contracts with Sonoco Products Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Sonoco Products Company, Hartsville, SC 29550.

MC 109124 (Sub-II–1–TA), filed March 24, 1980. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad, St., Suite 1800, Columbus, OH 43215. *Lime, limestone and limestone products, high temperature bonding mortar and roasted dolomite,* from Sandusky County, OH to points in AR, FL, MS, NC, and SC, for 180 days. Supporting shipper: Martine Marietta Chemicals, Refractories Division, Executive Plaza II, Hunt Valley, MD 21030.

MC 8958 (Sub-2–6–TA), filed March 24, 1980. Applicant: THE YOUNGSTOWN CARTAGE CO., 825 West Federal St., Youngstown, OH 44591. Representative: Philip Cianciolo 825 West Federal St., Youngstown, OH 44501. *Cold Rolled Specialty Steel VIZ: Band and/or Strip Steel, Box and/or Steel Strapping,* Between the facilities of the Stanley Works, Inc. at New Britain, CT and points in AL, FL, GA, MS, NC, SC, TN, TX and VA for 180 days, an underlying ETA seeks 90 days authority. Supporting shipper(s): The Stanley Works, P.O. Box 1800, New Britain, CT 06050.

MC 8771 (Sub-II–3–TA), filed March 26, 1980. Applicant: SM TRANSPORT INC., P.O. Box 41, Camp Hill, PA 17011. Representative: John Sims, Jr., 915 Pennsylvania Building, 425 13th St., N.W., Washington, DC 20004. *Cranes, traveling, storage racks, and parts and accessories thereof,* from Mendota, IL to points in CT, DE, DC, IA, KY, ME, MD, MA, MI, MO, NH, NJ, NY, PA, RI, TN, VT, and VA. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heico Inc., Mendota, IL 61342.

MC 121420 (Sub-II–1TA), filed March 21, 1980. Applicant: DART TRUCKING COMPANY, INC., 61 Railroad St., Canfield, OH 44406. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Coal,* in bulk, in dump vehicles, from Mahoning Creek Mine, Armstrong City, PA to points in OH (including Brookpark, Canton, Cleveland, Grand River, Lima, Lorain, Sandusky and Walton Hills), and those points in NY on and west of a line beginning at the PA–NY state line and extending over U.S. Highway 11 to junction NY Highway 13, and then over NY Highway 13 to Lake Ontario, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sharon Steel Corporation, Carpentertown Coal & Coke Co., P.O.B. 291, Sharon, PA 16146.

MC 150390 (Sub-II–1TA), filed March 24, 1980. Applicant: JAMES R. COLLINS d/b/a, J & J TRUCKING COMPANY, Route 2, Box 148, Boonsboro, MD 21713. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Contract carrier, irregular routes, (1) *Bagged cement,* from Security, MD and its commercial zone to points in DC and VA; (2) *Stone dust,* from Frederick, MD and its commercial zone to Herndon, VA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cherrydale Cement Block Company, 220 Spring Street, P.O. Box 687, Herndon, VA 22070.

The following applications were filed in Region 5. Send protests to: Consumer Assistant Center, Interstate Commerce Commission, 411 West 7th Street—Suite 600, Fort Worth, TX 76102.

MC 22509 (Sub-5–5TA), filed March 28, 1980. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, P.O. Box 939, St. Joseph, Missouri 64502. Representative: E. Wayne Farmer, Attorney, 27th Floor, City Center Square, P.O. Box 26010, Kansas City, Missouri 64196. *Containers and container ends,* between St. Paul, MN and Burlington, WI, and points and places in the states of IA, NE, KS and MO. Supporting shippers: Foster Forbes Glass Co., E. Charles Street, Marion, IN 46952; National Can Corporation, 8101 West Higgins Road, Chicago, IL 60631; St. Joseph Packaging, Inc., 4515 Easton Road, St. Joseph, MO 64503; Hoover-Universal, Inc., 9939 Widmer Road, Lenexa, KS 66215; Continental Can Co., 10050 Regency Circle, Omaha, NE 68114; American Can Co., American Lane, Greenwich, CT 06830.

MC 40757 (Sub-5–1TA), filed March 17, 1980. Applicant: CREECH BROTHERS TRUCK LINES, INC., 100 Industrial Drive, Troy, Missouri 63379. Representative: Richard A. Mehley, 1000–16th Street, NW, Washington, D.C. 20036. Common; Regular. *General commodities (except those of unusual value, Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, and commodities requiring special equipment),* between Troy, MO and Kansas City, MO–KS, from Troy over U.S. Hwy 61 to junction with Interstate Hwy 70 to Kansas City, MO–KS, or from Troy over MO Hwy 47 to junction with Interstate Hwy 70, then over Interstate Hwy 70 to Kansas City, MO–KS, and return over the same routes, serving no intermediate points and serving Bowling Green, Clarksville, Elsberry, Foley,

Louisiana, Old Monroe, Vandalia, Farber, and Winfield, MO as off-route points in connection with the sought regular route authority and applicant's existing regular route authority. Supporting shippers: There are 23 supporting shippers.

MC 83835 (R5–1TA), filed March 25, 1980. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: James W. Hightower, Hightower, Alexander & Cook, P.C., 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237 (214) 339–4108. *Oilfield and earth drilling equipment, materials, and supplies.* From Memphis, TN to points in TX, restricted to shipments destined to the drilling sites and assembly sites of Trans-Tex Energy. Supporting shipper: Trans-Tex Energy, Inc., 12700 Park Central Place, Suite #1202, Dallas, TX 75251.

MC 105566 (Sub-5–3TA), filed March 28, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1120, Cape Girardeau, Missouri 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Virginia 22150. *Such commodities as are dealt in or used by manufacturers of glass containers, glassware, closures, plastic articles, chinaware and hardware (except in bulk in tank or hopper vehicles),* from, to or between the facilities of Anchor Hocking Corporation in CA, FL, TX, IL, IN, MD, MA, NV, OH, PA, and WV on the one hand, and, on the other, all points in the United States except AL and HI. Supporting shipper: Anchor Hocking Corporation, 109 North Broad St., Lancaster, OH 43130.

MC 105984 (Sub-5–1TA), filed March 27, 1980. Applicant: JOHN B. BARBOUR TRUCKING CO., Post Office Box 577, Iowa Park, TX 76367. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Iron and steel articles and pipe.* From the facilities of Maverick Tube Corporation at or near Union, MO to points in OK, TX and CO. Supporting shipper: Maverick Tube Corporation, 311 N. Lindbergh Blvd., St. Louis MO 63141.

MC 106398 (Sub-5–9TA), filed March 27, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Metal products* from the facilities of Birmingham Ornamental Iron Company at Birmingham, AL to points in the state of PA. Supporting shipper: Birmingham Ornamental Iron Company, P.O. Box 1357, Birmingham, AL.

MC 106398 (Sub-5–10TA), filed March 27, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Iron and steel products* from the facilities of Cicero Wire Rod Company at Syracuse, New York to points in AZ, MO, TX, and NC. Supporting shipper: Cicero Wire Rod Company, P.O. Box 2669, Syracuse, NY.

MC 106398 (Sub-5–12), filed March 28, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Iron and steel articles from:* Ashville, AL to: Points in OH, PA, NY, NJ, KY, NC, SC, GA, IL, MO, TN, FL, MS and MN. Supporting shipper: Dietrich Industries, P.O. Box 400, Ashville, AL.

MC 108207 (Sub-5–4TA), filed March 27, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M.W. Smith (same address as applicant). *Canned and bottled foodstuffs, in vehicles equipped with mechanical refrigeration,* from Cade and Lozes, LA to points in IL and IN. Supporting shipper: Bruce Foods, P.O. Box 1030, New Iberia, LA 70560.

MC 111231 (Sub-5–4TA), filed March 27, 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. *Iron and steel articles including steel tubing,* from the facilities of the Bull Moose Tubing Company at or near Gerald, MO, to the facilities of Huffy Corporation in Ponca City, OK. Supporting shipper: Huffy Corporation, 3305 N. 14th Street, Ponca City, OK 74601.

MC 114211 (Sub-5–7TA), filed March 28, 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 manufactured, distributed, dealt in, or used by manufacturers, distributors or dealers of agricultural, construction, and industrial machinery and equipment, and parts, accessories, and attachments for such commodities,* between Claremore, OK, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Parham Industries, Inc., 903 West Blue Star, Claremore, OK 74017.

MC 117765 (Sub-5–2TA), filed March 28, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R.E. Hagan (same address as applicant. *Petroleum products, in containers,* from Eldorado, KS to AR, CO, LA, NM, OK, TX and WY. Supporting shipper: Getty Refining and Marketing Co., P.O. Box 1650, Tulsa, OK 74102.

MC 118292 (Sub-5–1TA), filed March 21, 1980. Applicant: BALLENTINE PRODUCE, INC., Post Office Box 454, Alma, AR 72921. Representative: Barry Roberts, 888 17th Street, N.W., Washington, D.C. 20006. Common; Irregular. *Frozen Foods,* from Minneapolis, MN to points in MO, AR, OK, LA, and TX. Supporting shipper: Northern Star Company, 3171 Southeast 5th Street, Minneapolis, MN 55414.

MC 119399 (Sub-5–5TA), filed March 28, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara, 2900 Davis Boulevard, Joplin, MO 64801. *Corrugated fibreboard partitions, KDF,* from the facilities of Four-M Corporation at North Kansas City, MO to Ada, Henryetta, Muskogee, Okmulgee, Sand Springs, and Sapulpa, OK. Supporting shipper: Four-M Corporation; 600 East 16th Avenue; North Kansas City, MO 64116.

MC 119399 (Sub-5–6TA), filed March 28, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara, (same as applicant). *Glassware,* from the facilities of Bartlett-Collins Company, Sapulpa, OK to New Orleans, LA to points in AR south of interstate Hwy 40 (except Little Rock and Fort Smith, AR and their commercial zones), and to points in TX east of U.S. Hwy 75 and interstate Hwy 45 (except Dallas and Houston, TX and their commercial zones). Supporting shipper: Bartlett-Collins Company; P.O. Box 1288; Sapulpa, OK.

MC 119493 (Sub-5–11TA), filed March 27, 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. *Such commodities as are dealt in by wholesale and retail discount or variety stores (except commodities in bulk)* from points in the U.S. (except AK and HI) to facilities of Wal-Mart Stores, Inc. in AL, IL, KY, KS, LA, MO, MS, OK, TN, and TX. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 119493 (Sub-5–12TA), filed March 27, 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. *Canned and preserved foodstuffs (except commodities in bulk)* from: facilities of Woldert Canning Co. at or near Lindale, TX to: AL, AR, FL, GA, KY, LA, MO, MS, NC, OK, SC, and TN. Supporting shipper: Chris Woldert, Woldert Canning Co., P.O. Box 1140, Tyler, TX 75710.

MC 119789 (Sub-5–9TA), filed March 28, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Nebold, P.O. Box 226188, Dallas, TX 75266. *Urea Molding Compound,* from Dallas, TX to Del Rio, TX. Supporting shipper: Plastics Manufacturing Co., 2700 South Westmoreland Avenue, Dallas, TX 75223.

MC 120031 (Sub-5–1TA), filed March 28, 1980. Applicant: WOODARD TRUCKING COMPANY, INC., 1273 Sheffield, Houston, Texas 77015. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, Texas 77002. *Iron or steel reenforcing bar* from the facilities of Bethlehem Steel Corporation at Jacintoport Terminal in Houston, TX, to points in AR. Supporting shipper: Bethlehem Steel Corporation, P.O. Box 2966, Houston, TX 77001.

MC 120633 (Sub-5–1TA), filed March 28, 1980. Applicant: SPECIALIZED CARRIERS, INC., d.b.a. KISZKIEL TRUCKING, 7119 Wright Road, Houston, Texas 77041. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, Texas 77002. *Iron and steel articles and machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products* between points in TX, on the one hand, and, on the other, points in LA and OK. Supporting shippers: Ken Wind Company, 1225 Brittmoore, Houston, TX; Gulf Lab & Supply, 3223 Smith, Houston, TX; Pyramid Mfg. Co., P.O. Box 38660, Houston, TX; M. G. Maher & Co., Inc., 609 Fannin, Houston, TX 77042; and The Superior Oil Co., P.O. Box 1521, Houston, TX 77001.

MC 133591 (Sub-5–1TA), filed March 28, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. *Paper and paper products,* from the facilities of Potlatch Corporation at Lewiston, ID, to points in TX. Supporting shipper: Potlatch Corporation, P.O. Box 1016, Lewiston, ID 83501.

MC 135007 (Sub-5–3TA), filed March 21, 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: *chemicals* from points in CA, KY, WY, MT, IL, KS and TX to the facilities utilized by Thompson-Hayward Chemical Company at Omaha, NE. Supporting shipper: Thompson-Hayward Chemical Company, 5200 Speaker Road, Kansas City, KS 66106.

MC 135797 (Sub-5–18TA), filed March 28, 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) *Such commodities as are dealt in by manufacturers and distributors of swimming pools and swimming pool components, and* (2) *Materials, equipment and supplies utilized in the manufacturing and distribution of the commodities named in (1) above.* Between East Greenwich, RI and Atlanta, GA; Burlington, Robeling and Boundbrook, NJ; Petersburg, VA; Marietta, OH and Arlington, TN. Supporting shipper: Weatherking Pools, 1485 South County Trail, East Greenwich, RI 02818.

MC 135797 (Sub-5–20TA), filed March 28, 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. *Wood shavings (except in bulk).* From Laramie, WY to points in the United States (except AK and HI). Supporting shipper: Willis Products, Inc. 268 Orphum Bldg., Sioux City, IA 51101.

MC 135797 (Sub-5–21TA), filed March 28, 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. *Plastic articles (except in bulk).* Between points in and east of MN, IA, NE, KS, OK and TX. Restricted to shipments for the account of Nycel, Inc. Supporting shipper: Nycel, Inc., 600 Prospect, Piscataway, NJ 08854.

MC 135861 (Sub-5–7TA), filed March 28, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract; Irregular. *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides and commodities in bulk in tank vehicles), from Dodge City, KS to points in the US (except AK & HI). Supporting shipper: Hyplains Dressed Beef, Inc., Dodge City, KS.

MC 136220 (Sub-5–2TA), filed March 27, 1980. Applicant: SULLIVAN'S TRUCKING CO., INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Ferroalloys,* in bulk, in dump vehicles, from Theodore, AL, to Houston, TX. Supporting shipper(s): Autlan Metals International Co., 4710 Bellaire Blvd., Bellaire, TX 77401.

MC 136220 (Sub-5–3TA), filed March 27, 1980. Applicant: SULLIVAN'S TRUCKING CO., INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 24, El Reno, OK 73036. *Clay,* in bulk, in dump vehicles, from the facilities of Stauffer Chemical Company at Little Rock, AR to the facilities of Stauffer Chemical Company at Springhill, LA. Supporting shipper(s): Stauffer Chemical Company, Westport, CT 06880.

MC 136786 (Sub-5–13TA), filed March 28, 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. *Commodities dealt in by retail and wholesale grocery warehouses and stores (except commodities in bulk)* from the facilities of Hunt-Wesson Foods, Inc., located in the Chicago, IL Commercial Zone to points in IL, IN, and KY. Supporting shipper: Hunt-Wesson Foods, Inc., P.O. Box 127, Rossford, OH 43460.

MC 136786 (Sub-5–14TA), filed March 28, 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. *Canned goods* (1) from the facilities of Joan of Arc Company, at or near Hoopeston, Princeville, IL and Turkey, NC, to points in FL and TX; and (2) from the facilities of Joan of Arc Company at or near St. Francisville and Belledeau, LA to points in AZ, CA, ID, NV, OR, UT, and WA. Supporting shipper: Joan of Arc Company, 2231 West Altorfer Drive, Peoria, IL 61614.

MC 139495 (Sub-5–4TA), filed March 27, 1980. Applicant: NATIONAL

CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Avenue, N.W., Washington, DC 20006. *Canoes, camping, and out door recreational and camping equipment and car top carriers* from New Braunfels, TX, to points in the United States (except AK and HI). Supporting shipper(s): The Coleman Company, Inc., 250 North St. Francis Avenue, Wichita, KS 67201.

MC 139495 (Sub-5–5TA), filed March 28, 1980. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Avenue, N.W., Washington, DC 20006. *Heating and air conditioning equipment, supplies and materials such as are used in the manufacture, repair, installation and distribution thereof* from Wichita, KS, to points in the United States (except AK and HI). Supporting shipper(s): The Coleman Company, Inc., 250 North St. Francis Avenue, Wichita, KS 67201.

MC 140829 (Sub-5–8TA), filed March 28, 1980. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King, Vice President, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. *Foodstuffs (except in bulk in tank vehicles),* from Franklin Park, IL to points in CT, MA, NJ, NY, OH and PA. Supporting shipper: Fearn International, Inc., 9353 Belmont, Franklin Park, IL 60131.

MC 141197 (Sub-5–2TA), filed March 27, 1980. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Dry bulk ammonium nitrate* in dump vehicles, from Lawrence, KS to points and places in AR and OK. Supporting shipper: Missouri Farmers Association, Inc., 201 South 7th Street, Columbia, MO 65201.

MC 142364 (Sub-5–5TA), filed March 21, 1980. Applicant: KENNETH SAGELY d.b.a. SAGELY PRODUCE, P.O. Box 368, Van Buren, AR 72956. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Charcoal briquettes, lighter fluid, hickory chips and related BBQ items*—from the facilities of Husky Industries, Inc., at or near Branson, MO—to points in AR, CO, NM, OK and TX. Supporting shipper: Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346.

MC 142508 (Sub-5–17TA), filed March 27, 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. *Frozen potatoes* from the facilities of the Carnation Company at Nampa, ID to Jacksonville and Miami, FL; Savannah, GA; New Orleans, LA and Charleston, NC (Restricted to traffic having a subsequent movement by water). Supporting shipper: A. J. Cunningham Meat Corporation, Raj Gundavda, Export Traffic, 1776 Heritage Drive, North Quincy, MA 02171.

MC 143433 (Sub-5–1TA), filed March 28, 1980. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING CO., 310 South First Avenue, Stroud, OK 74079. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Meat, meat products, and meat by-products, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from points in FL to Muskogee, OK; and (2) from Muskogee, OK to points in AZ, AR, CA, GA, IL, KS, LA, MS, MO, NM, and TX, restricted to traffic originating at or destined to the facilities of Muskogee Meat Packing Company. Supporting shipper: Muskogee Meat Packing Co., P.O. Box 2306, Muskogee, OK 74401. Send protests to: Regional Consumer Assistance Center, Suite 600, 411 West Seventh Street, Fort Worth, TX 76102.

MC 143433 (Sub-5–2TA), filed March 28, 1980. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING CO., 310 South First Avenue, Stroud, Oklahoma 74079. Representative: Greg E. Summy, P.O. Box 1540, Edmond, Oklahoma 73034. *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 Oklahoma City, OK to points in the United States (except AK, HI, WA, OR, ID, MT, WY, ND, and SD), restricted to traffic originating at the facilities of Cornett Packing Company. Supporting shipper: Cornett Packing Company, P.O. Box 26947, Oklahoma City, OK 73126.

MC 144616 (Sub-5–2TA), filed March 28, 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. *Foodstuffs* (except in bulk) from the facilities of Knouse Foods, Inc. at Peach Glen, Chambersburg and Orrtanna, PA to points in AR, LA, NM, OK and TX. Supporting shipper: Knouse Foods, Inc., Peach Glen, PA 17306.

MC 145441 (Sub-5–10TA), filed March 27, 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. *Canned goods and non-alcoholic mixes, (except commodities in bulk),* from Byhalia, MS to Little Rock, AR; Jacksonville, Miami, Tampa, FL; Atlanta, GA; Chicago, IL; Baton Rouge, Shreveport, LA; Detroit, MI; Kansas City, St. Louis, MO; Columbus, OH; Dallas, San Antonio, TX. Supporting shipper: Master of Mixers, Inc., 10975 Grandview Street, Overland Park, KS 66210.

MC 145950 (Sub-5–4TA), filed March 27, 1980. Applicant: BAYWOOD TRANSPORT, INC., Route 6, Box 2611, Waco, TX 76706. Representative: Michael D. Bromley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. *Wheels and tires,* from the facilities of Empco Industries at or near Glendale, CA to Jonesboro, AR; Denver and Pueblo, CO; Jacksonville, Orlando and Tampa, FL; Mountain View, GA; Des Moines, IA; Kansas City, KS; Grand Rapids, MI; Batesville, MS; Somerset, NJ; Memphis, TN; Dallas, El Paso, Houston and McAllen, TX, and their commercial zones. Supporting shipper: Empco Industries, 900 Allen Avenue, Glendale, CA 91201.

MC 146448 (Sub-5–1TA), filed March 28, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Disposable specimen containers* from the facilities of Superior Plastic Products Corp. at or near Cumberland, RI to points in CA. Supporting shipper: Superior Plastic Products Corp., Industrial Road, Cumberland, RI 02984.

MC 148035 (Sub-5–1TA), filed March 17, 1980. Applicant: QUANDT TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, NE 68110. Representative: Arlyn L. Westergren, Westergren & Hauptman, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Denatured alcohol* in bulk, from the facilities of American Agri-Fuels Corporation at Rockport, MO to Omaha, NE and its Commercial Zone. Supporting shipper: American Agri-Fuels Corporation, Suite 1010; 1006 Grand, Kansas City, MO 64106.

MC 150014 (Sub-5–2TA), filed March 27, 1980. Applicant: TRANSWAY, INC., 1320 E. 6th St., Irving, TX 75060. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Contract:

Irregular. *Swimming pool equipment, chemicals and supplies,* from Livonia, MI, Charleston, TN and Doraville, GA. to points in AR, KS, LA, MS, OK and TX. Supporting shipper: Holiday Industries, Inc., Rock Island Road, Grand Prairie, TX 75050.

MC 150088 (Sub-5–2TA), filed March 28, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, Phinney, Hallman, Pulley & Coke, 4555 First National Bank Building, Dallas, TX 75202. *Commodities, equipment, materials and supplies dealt in or used by retail, variety or department stores* from the facilities of Sterling Apparel Systems, Inc. in Grand Prairie, TX to the Target Store in Lubbock, TX. (Restricted to the transportation of traffic owned by Target Stores Division of Dayton Hudson and destined to the Target Store in Lubbock, TX, and having an immediate prior move by rail or motor common carrier in interstate commerce.) Supporting shipper: Target Stores Division of Dayton Hudson, 7120 Hwy 65, Fridley, MN 55432.

MC 150098 (Sub-5–1TA), filed March 27, 1980. Applicant: CHARLES OFFUTT CO., 105 W. Broadway, Bossier City, La. 71111. Representative: Charles E. Offutt, 105 W. Broadway, Bossier City, La. 71111. *Sporting goods and recreational equipment.* Between Bossier City, La., and points in Arkansas, Mississippi, Missouri, Alabama, Florida, Pennsylvania, California, and Michigan. Supporting shipper: Gabriel Industries, Gym-Dandy, Inc., 415 Hamilton Road, Bossier City, La. 71111.

MC 150114 (Sub-5–1TA), filed March 21, 1980. Applicant: EARL EDWARDS, an Individual, Route 1, Prairie Grove, AR 72753. Representative: Michael H. Mashburn, Blair, Cypert, Waters & Roy, P.O. Box 869, Springdale, AR 72764. Contract, irregular, *soybean meal, ground wheat and bran, in bulk,* from Kansas City, MO and Coffeyville, KS to Westville, OK. Supporting shipper: Cargill, Inc., 706 S. West Street, Lincoln, AR 72744.

MC 150249 (Sub-5–3TA), filed March 26, 1980. Applicant: RICHLAND TRUCKING, INC., Route 1, Tillar, Arkansas. 71670. Representative: Fred Weatherly, Route 1, Tillar, Arkansas. 71670. *Containers and trailers, empty or loaded with paper and paper products.* Between the facilities of Potlatch Corporation at or near Cypress Bend, AR and Railroad facilities at McGehee, AR. Restriction: Restricted to traffic moving in containers and trailers having prior or subsequent movement by rail in interstate commerce. Supporting shipper: Potlatch Corporation, P.O. Box 1016, Lewiston, Idaho 83501.

MC 150311 (Sub-5–2TA), filed March 27, 1980. Applicant: P & L MOTOR LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Meats, meat products, meat byproducts, and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the Report in Motor Carrier Descriptions, 61 M.C.C. 209 and 766, (except hides and commodites in bulk in tank vehicles).* From the facilites of Calhoun Packing Company at Palestine, TX to points in AL, CT, FL, GA, IL, IN, OH, MD, MA, MS, NJ, NY, NC, PA, RI, SC, VT, VA, WV and DC. Supporting Shipper: Calhoun Packing Company, P.O. Box 709, Palestine, TX 75801.

MC 150410 (Sub-5–1TA), filed March 26, 1980. Applicant: WILLIAMS TRUCKING COMPANY, INC., 626 South Louisiana Street, Mangum, Okahoma 73554. Representative: Rick L. Williams, 610 South Louisiana, P.O. Box 185, Mangum, Oklahoma 73554. (1) *Steel, steel products and pipe* from Houston, San Antonio, Borger, TX and their commercial zones to points in OK, KS, CO, AZ, NM and CA; (2) *Oil field machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products and *heavy equipment,* between TX and OK and from points in TX and OK to points in KS, CO, AZ, NM and CA. Fourteen (14) shippers support the application.

MC 150422 (Sub-5–1TA), filed March 27, 1980. Applicant: OKLAHOMA-KANSAS GRAIN CORP, P.O. Box N, 5150 West Channel Road, Catoosa, OK 74015. Representative: Clyde N. Christey, KS Credit Union Bldg, 1010 Tyler, Suite 110L, Topeka, KS 66612. *Salt and salt products,* From Port of Catoosa, OK to points in KS on and South of U.S. Hwy 56. Supporting shipper: Cargill, Inc., Salt Div., P.O. Box 9300, Minneapolis, MN 55440.

Republication

MC 147517 (Sub-5–2TA), filed January 16, 1980. Applicant: TEXAS HIGHWAY TRANSPORT, INC., 2311 Butler, Dallas, TX 75235. Representative: D. Paul Stafford, Winkle, Wells & Stafford, P.O. Box 45538, Dallas, TX 75245. *Trailers loaded or empty having a prior or subsequent movement by rail on trailer-or-flat-car (TOFC) service between rail facilities* located in Anderson, Angelina, Aransas, Archer, Atascosa, Austin, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Cass, Chambers, Cherokee, Clay, Collin, Colorado, Comal, Comanche, Cooke, Coryell, Dallas, Delta, Denton, DeWitt, Dimmit, Duval, Eastland, Ellis, Erath, Falls, Fannin, Fayette, Fort Bend, Franklin, Frio, Galveston, Gillespie, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hill, Hood, Hopkins, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kerr, Kinney, Kleberg, Lamar, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Madison, Marion, Matagorda, Maverick, McLennan, McMullen, Medina, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Palo Pinto, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shackelford, Shelby, Smith, Sovervell, Starr, Stephens, Tarrant, Taylor, Throckmorton, Titus, Travis, Trinity, Tyler, Upsher, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, and Zavala counties, Texas on the one hand, and on the other, points located in Anderson, Angelina, Aransas, Archer, Atascosa, Austin, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Cass, Chambers, Cherokee, Clay, Collin, Colorado, Comal, Comanche, Cooke, Coryell, Dallas, Delta, Denton, De Witt, Dimmit, Duval, Eastland, Ellis, Erath, Falls, Fannin, Fayette, Fort Bend, Franklin, Frio, Galveston, Gillespie, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kerr, Kinney, Kleberg, Lamar, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Madison, Marion, Matagorda, Maverick, McLennan, McMullen, Medina, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Palo Pinto, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Tarrant, Taylor,

Throckmorton, Titus, Travis, Trinity, Tyler, Upsher, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wichita, Willbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, and Zavala counties, Texas, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Texas Shippers Association, Inc., 2311 Butler Street, Dallas, TX; Florida-Texas Freight, 2700 Gaston Avenue, Dallas, TX 75226; and ITOFCA, Inc., P.O. Box 188, Clarendon Hills, IL 60514.

Republication

MC 102546 (Sub-5–4TA), filed January 31, 1980. Applicant: BLUE FLASH EXPRESS INC., Route 1, Box 233, Zachary, LA 70791. Representative: L. F. Aguillard, same as above. Contract carrier, irregular routes, *Chemicals, in bulk, Liquid or Dry No exceptions* between points in LA on the one hand, and, on the other, points in the States of MS, NC, TN, KS, TX, AR, GA, AL, SC, and OK; between points in LA having prior or subsequent movement by rail or water for 180 days. Underlying ETA filed. Supporting shippers: Kaisers Alum & Chemical Corp., Suite 615, 10001 Lake Forest Blvd., New Orleans, LA; ICI Americas, Inc., P.O. Box 271, Baton Rouge, LA 70821.

Republication

MC 35320 (Sub-5–34TA), filed: January 30, 1980. Applicant: T.I.M.E.–DC, INC., P. O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). 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 Denver, CO and its commercial zone and San Francisco, CA and its commercial zone. From Denver, CO over Interstate 25 to its junction with Interstate 80, then over Interstate 80 to San Francisco and return over the same route. Applicant will tack and interline with existing authority. Supporting shipper: None.

Republication

MC 35320 (Sub-5–34TA), filed: January 30, 1980. Applicant: T.I.M.E.–DC, INC., P. O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). 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 Salt Lake City, UT and its commercial zone and El Paso, TX and its commercial zone. Serving the intermediate point of Albuquerque, NM and its commercial zone for the purpose of joinder only. From Salt Lake City, UT over Interstate Highway 15 to its junction with U. S. Highway 6, then over U.S. Highway 6 to its junction with U.S. Highway 666, then over U.S. Highway 666 to its junction with U.S. Highway 64, then over U.S. Highway 64 to its junction with New Mexico Highway 44, then over New Mexico highway 44 to its junction with Interstate Highway 25, then over Interstate Highway 25 via Albuquerque, NM to El Paso, TX and return over the same route. Will tack and interline at Salt Lake City, UT, Albuquerque, NM and El Paso, TX. Supporting shipper: None.

Republication

MC 139190 (Sub-5–1TA), filed February 13, 1980. Applicant: KOCH TRUCK LINE, INC., 619 Iowa Street, Sabetha, KS 66534. Representative: Eugene W., Hiatt, Hiatt, Crocket, Hiatt & Carpenter, Chartered, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603. Contract, Irregular. *Metal, livestock panels, portable corrals, loading chutes, hay bale movers, hay bale feeders, livestock handling equipment* from Plymouth, NE to WY, CO, MT, ID, UT, CA, OR, NM, AZ, KS, ND, SD, WI; *steel products, steel plates, steel bars, steel structurals, steel tubing for livestock handling equipment* from IA, IL, MO, IN, KS, and OH to Plymouth, NE. Supporting shipper: Molzer Manufacturing Company, P.O. Box 217, Plymouth, NE 68424.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 133097 (Sub-VI–1TA), filed March 25, 1980. Applicant: SYSTEM REFFER SERVICE, INC., 4614 Lincoln Avenue, Cypress, CA 90630. Representative: Charles E. Creager, Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract Carrier:* Irregular routes: *Such commodities as are dealt in by a manufacturer of power tools* and the *materials, supplies and equipment* used in the conduct of such business, between all points in the United States, except AK and HI, for the account of Black & Decker (U.S.) Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Black & Decker (U.S.) Inc., 701 E. Joppa Road, Towson, MD 21204.

MC 55174 (Sub-VI–1TA), filed March 26, 1980. Applicant: ASSOCIATED TRANSPORTATION CO., INC., "B" and Craddock, P.O. Box AG, Yuba City, CA 95991. Representative: Michael J. Stecher, Silver, Rosen, Fischer & Stecher, 256 Montgomery Street, San Francisco, CA 94104. *Truck parts, tractor parts and agricultural implement parts and related items,* between points in Alameda and San Joaquin Counties, CA, on the one hand, and, on the other, points in Ventura, Kern, Santa Barbara, Tulare, Merced and Fresno Counties, CA, restricted to shipments having a prior to subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. There are 9 supporting shippers and their statements may be examined at the office below.

MC 63562 (Sub-6–5TA), filed March 27, 1980. Applicant: BN TRANSPORT INC., 6775 East Evans Avenue, P.O. Box 22694, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Meat, meat products, and meat by-products* (except commodities in hulk) (1) From the facilities of The Rath Packing Company at Columbus and Waterloo, IA to points in AZ, CA, CO, NV, NM, OK, OR, TX, and WA; and (2) From the facilities of Spencer Foods, Inc. at Fremont and Schuyler, NE to points in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: The Rath Packing Company, P.O. Box 330, Waterloo, IA 50704; Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68661.

MC 52793 (Sub-VI–1TA), filed March 28, 1980. Applicant: BEKINS VAN LINES CO., 3090 Via Mondo, Compton, CA 90221. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Penn. Ave. & 13th St., N.W., Washington, DC 20004. *Swimming pools, parts and materials used in the manufacture* or *installation* of swimming pools and equipment (except commodities in bulk), from points in NJ to points in the U.S. except AK and HI, for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shippers: Ester Williams Swimming Pools, Inc., Traffic Manager, 9000 River Rd., Delair, NJ 08110; Johnny Weismiller Pools, Inc., Traffic Manager, 9000 River Rd., Delair, NJ 08110.

MC 149118 (Sub-6–1TA), filed March 27, 1980. Applicant: BEST WAY TRANSPORT, INC., d.b.a. BEST TRANSPORT, INC., 3841 North Columbia Boulevard, Portland, Oregon 97217. Representative: Michael D. Crew, 1700 Standard Plaza, Portland, Oregon 97204. *Equipment, materials and supplies used in the transmission and switching of telephonic communications and empty telephone cable reels,*

between points in OR, WA and Nez Perce, Lewis, Clearwater and Idaho Counties, IDA, for 180 days. Restriction: Service provided pursuant to this authority is restricted to transportation for the account of Pacific Northwest Bell Telephone Company. An underlying ETA for 90 days has been granted. Supporting shipper: Pacific Northwest Bell Telephone Company, 1235 N.E. 47th Avenue, Portland, Oregon 97213.

MC 148744 (Sub-6TA), filed March 26, 1980. Applicant: BOWMAN TRUCKING, INC., 2606 2nd Street, La Grande, OR 97850. Representative: Lenora Brewer, d.b.a. Double L's Bookkeeping Service, 1604 U Avenue, La Grande, OR 97850. *Wood Chips,* from the facilities of Christaad Enterprises, Inc. at or near La Grande, OR to Longview, WA and Wallula, WA for 180 days. Supporting shipper: Christaad Enterprises, Inc., P.O. Box 1678, La Grande, OR 97850.

MC 71652 (Sub-VI–1TA), filed March 27, 1980. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Hwy., P.O. Box 280, Medford, OR 97501. Representative: David J. Stewart, Ph.D., 4669 Crater Lake Hwy., P.O. Box 280, Medford, OR 97501. *(1) Iron and steel articles, as described in Appendix V to the report in descriptions in Motor Carrier Certificates, 61 MCC 209, (2) crushed automobile bodies, and (3) scrap metals and scrap metal alloys* between points and places in the states of ID, MT, OR, UT, WA, and WY; restricted to shipments moving for the account of Metra Steel for 180 days. Supporting shipper: Metra Steel, P.O. Box 3154, Portland, OR 97208.

MC 142748 (Sub-VI–1TA), filed March 26, 1980. Applicant: GENARO T. CAMACHO, d.b.a. Gene's Freight Lines, 3230 W. Mississippi Ave., Denver, CO 80219. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. *Contract carrier:* Irregular routes: *metal containers* from Oklahoma City, OK to Denver CO for the account of Columbine Beverage Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Columbine Beverage Co., 4301 Broadway, Denver, CO 80216.

MC 150413 (Sub-VI–1TA), filed March 27, 1980. Applicant: JOE COSTA TRUCKING, Highway 299-West End Road, P.O. Box 748, Arcata, CA 95521. Representative: Marvin Handler, Handler, Baker, Greene & Taylor, P.C., 100 Pine Street-Suite 2550, San Francisco, CA 94111. *Contract carrier:* Irregular routes: *Wood residuals,* from Brookings, OR to Fairhaven, Smith River and Crescent City, CA, for the account of South Coast Lumber Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: South Coast Lumber Co., P.O. Box 670, Brookings, OR 97415.

MC 115826 (Sub-VI–4TA), filed February 25, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, 6015 East 58th Avenue, Commerce City, CO 80022. (1) *such commodities as are dealt in by a manufacturer of power tools;* (2) *materials, supplies and equipment* (except commodities in bulk) used in the conduct of such business, between all points in the United States (except AK and HI) for 180 days. Restricted to the transportation of traffic originating at or destined to the facilities of Black and Decker (U.S.) Inc., Black and Decker, Ltd. and The McCullock Corp. Supporting shipper: Black and Decker (U.S.) Inc., 701 East Joppa Road, Towson, MD 21204.

MC 75302 (Sub-VI–2TA), filed March 25, 1980. Applicant: DOUDELL TRUCKING COMPANY, P.O. Box 842, San Jose, CA 95106, (555 East Capital Avenue, Milpitas, CA). Representative: Ronald C. Chauvel, Handler, Baker, Greene & Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Waste paper for reuse or recycling,* from Las Vegas, NV to Los Angeles, CA restricted to shipments moving for the account of Ecology Paper Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ecology Paper Company, Inc., 420 South 48th Street, Phoenix, AZ 85034.

MC 52914 (Sub-VI–1TA), filed March 26, 1980. Applicant: FITCHETT TRUCK LINES, INC., P.O. Box 10799, 3641 N.W. Front Avenue, Portland, Oregon 97210. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210. *Plastic articles,* from the facilities of Nalle Plastics, Inc. at Portland, OR, to points in WA and CA, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper: Nalle Plastics, Inc., 2244 N.E. Columbia Blvd., Portland, Oregon.

MC 115354 (Sub-VI–1TA), filed March 27, 1980. Applicant: GOODMAN MOTOR TRANSPORT CO. (1973) LTD., 8510 Jellicoe Street, Vancouver, B.C. Canada V5S 3V1. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. *Contract Carrier:* Irregular routes: *Lumber, lumber products, poles and pilings,* between points in the International Boundary at or near Blaine, Lynden and Sumas, WA and points in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis and Skamania Counties, WA and Multnomah, Clackamas, Marion, Linn and Lane Counties, OR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interex Forest Products Ltd., 1832 Vine Street, Vancouver, B.C. V6K 3J7; Balker Softwoods Ltd., No. 2–8431 Granville Street, Vancouver, B.C. V6P 4Z9; MacMillan Bloedel Limited, P.O. Box 279, Postal Station "A", Vancouver, B.C.

MC 142686 (Sub-VI–3TA), filed March 27, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio, 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. *Contract Carrier:* Irregular routes: *Bedding, related materials and supplies used in the manufacture thereof,* From (1): Mineral Wells, TX.; to: Ogden, UT; Columbus, Ohio; Richmond, VA; New Cumberland, PA; Mechicsburg, PA; Memphis, Tenn.; and San Francisco, CA. From (2): Los Angeles, CA; Memphis, Tenn.; To: Dallas and Mineral Wells, TX, for the account of Airline Instruments, Inc., for 180 days. Supporting shipper: Airline Instruments, Inc., 1371 Crampton Street, Dallas, TX 95209.

MC 142686 (Sub-VI–4TA), filed March 21, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio, 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. *Contract Carrier:* Irregular routes: *Air Conditioning Equipment, and materials and supplies used in the manufacture, distribution, and installation thereof,* from, the facilities of Bohn Heat Transfer Division Gulf & Western Manufacturing Co. at Beardstown, IL; to points in the United States except Alaska and Hawaii, for 180 days. Supporting shipper: Bohn Heat Transfer Division, 1625 E. Voordes Street, Danville, IL 61832.

MC 32882 (Sub-VI–2TA), filed March 26, 1980. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. (1) *Trucks or tractors, platform or warehouse; cars, electric with or without batteries; barrows, trucks or wagons with platforms and parts thereof and rectifiers* from, the facilities of Taylor-Dunn at/or near Anaheim, CA to points in the United States, excluding AK and HI and (2) *Iron and steel articles* from East Chicago, IN to the facilities of Taylor-Dunn at/or near Anaheim, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Taylor-Dunn, 2114 West Ball Road, Anaheim, CA.

MC 142960 (Sub-VI–1TA), filed March 26, 1980. Applicant: PIXLEY

TRANSPORTATION INC., 1410 Oak Street, Box 927, Forsyth, MT 59327. Representative: Laila Pixley (same as applicant). *Contract carrier,* irregular routes, to transport *Railroad crews and their baggage in the same vehicle with passengers,* within a 300 mile radius of Missoula MT (in counties of Spokane, WA and Bundry, Bonner, Kootena & Shoshone, ID); and within a 300 mile radius of Havre, MT and a 300 mile radius of Glasgow, MT (MT and Divide, Williams, McKenzie, Burke, Mountrail, Renville, and Wardin Counties, ND), for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Burlington Northern Inc., 235 Main St., Havre, MT 59501; Burlington Northern Inc., N. End Higgins Ave., Missoula, MT 59801.

MC 129857 (Sub-VI–2TA), filed March 27, 1980. Applicant: G.R.M., INC., d.b.a. PORT TERMINAL TRANSPORT, INC., 700 Henry Ford Avenue, Long Beach, California 90810. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, 1800 United California Bank Building, Los Angeles, California 90017. *Imported trucks and automobiles* from, Los Angeles County, CA, to points in AZ, NV, UT, and NM for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Toyota Motor Sales, U.S.A., Inc., 2055 West 190th Street, Torrance, California 90504.

MC 150411 (Sub-VI–1TA), filed March 25, 1980. Applicant: JERRY REID TRUCKING LTD., 16728–111 Avenue, P.O. Box 5364, Edmonton, Alberta, Canada T5P 4C9. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract; irregular; Styrofoam containers,* from the ports of entry on the United States-Canada International Boundary Line located in MT, ID, and WA, to points in CA, ID, MT, NV, OR, and WA. An underlying ETA seeks 90 days authority. Supporting shipper: Beaver Plastics Ltd., 12806–63 Street, Edmonton, Alberta, Canada T5A OW2.

MC 150412 (Sub-6–1TA), filed March 26, 1980. Applicant: VERNON EQUIPMENT, INC., 2115 East 27th Street, Los Angeles, CA 90058. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Contract Carrier,* Irregular routes: *Such merchandise as is dealt in by retail department stores,* between Ontario, CA, on the one hand, and, on the other, points in AZ, NV, NM and UT, under continuing contract or contracts with Mervyn's, for 180 days. Supporting shipper: Mervyn's, 25001 Industrial Blvd., Hayward, CA 94545.

MC 149166 (Sub-6–1TA), filed March 11, 1980. Applicant: VIA EXPRESS, INC., 3151 Diablo Ave., Hayward, CA 94545. Representative: J. H. Gulseth, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. *General Commodities,* except those of unusual value, class A & B explosives, household goods, commodities in bulk, and those requiring special equipment. Between the Via Express, Inc. facilities in Hayward, CA, on the one hand, and, on the other, points on and within a line beginning at Fort Bragg, CA and extending south along CA Hwy 1 to Carmel, CA, then along CA Hwy 1 and 68 to junction of CA Hwys 68 and 183 and US Hwy 101, then south along US Hwy 101 to junction of CA Hwy 166, then east along CA Hwy 166 to junction of CA Hwy 99, then north along CA Hwy 99 to junction of CA Hwy 65, then north along CA Hwy 65 to junction of CA Hwy 198, then west on CA Hwy 198 to junction of CA Hwy 245, then north along CA Hwy 245 to junction CA Hwy 180, then west along CA Hwy 180 to junction of Clovis Avenue, then north on Clovis Ave. to junction of Herndon Ave., then west on Herndon Ave. to junction CA Hwy 41, then north on CA Hwy 41 to junction of CA Hwy 49, then northwest on CA Hwy 49 to junction Interstate 50, then east on Interstate 50 to junction of CA Hwy 89, then north on CA Hwy 89 to junction Interstate 80, then east on Interstate 80 to Truckee, CA, then west on Interstate 80 to junction CA Hwy 49, then north on CA Hwy 49 to junction of CA Hwy 20, then west on CA Hwy 20 to junction of CA Hwy 70, then north on CA Hwy 70 to junction of CA Hwy 149, then northwest on CA Hwy 149 to junction of CA Hwy 99, then north on CA Hwy 99 to junction of Interstate 5, then north on Interstate 5 to junction of CA Hwy 273, then north on CA Hwy 273 to junction of Interstate 5, then south on Interstate 5 to junction of CA Hwy 20, then west on CA Hwy 20 to junction of CA Hwy 1, including points on the portions of the specified Highways for 180 days. An underlying ETA seeks 90 days authority. *Restricted* to transportation of articles aggragating less than 650 pounds from one consignor at one location to one consignee at one location on any one day. And further restricted against single-line service to points north of River Road in Sonoma and Mendocino Counties, CA.

MC 129994 (Sub-6–1TA), filed March 20, 1980. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Salt Lake City, UT 84107. Representative: Marilyn McNeil (same as applicant). *Common Lime* (except in bulk), from Dolomite, UT to points in AZ, CA, CO, and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flintkote Lime Co., 4700 Ramona Blvd., Monterey Park, CA 91754.

MC 138313 (Sub-6–1TA), filed March 24, 1980. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111

1. *Fertilizer, except in bulk in tank vehicles* (1) from Bannock and Caribou Counties, ID to Siskiyou County, CA, OR & WA and (2) from Bannock County, ID to MT, for 180 days. Supporting shipper; Donald A. Fletcher, Occidental Chemical, 8700 SW 26th Ave., Portland, OR 97219.

MC 149290 (Sub-6–1TA), filed March 24, 1980. Applicant: GARY G. BUNDAY, d.b.a. GARY BUNDAY TRUCKING, 1710 Terrace Avenue, Bozeman, MT 59715. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717–17th Street, Denver, CO 80202. *Frozen foodstuffs,* from the facilities of Foodways National, Inc. located at Wethersfield and Hartford, CT, to Plover, WI; Greenville, MI; Burley, ID; and Ontario, OR, for 180 days, restricted to the transportation of traffic originating at the facilities of Foodways National, Inc. at Wethersfield and Hartford, CT. Supporting shipper: Foodways National, Inc., P.O. Box 41, Boise, ID 83707.

MC 138624 (Sub-6–1TA), filed March 25, 1980. Applicant: CARGO TRANSPORT, INC., Rt. 1, Box 510, Corvallis, MT 59828. Representative: David E. Wishney, Attorney at Law, P.O. Box 837, Boise, ID 83701. *Salt and salt products,* from Solar, UT and the commercial zone thereof, to points in ID, MT, WA and those points in OR on and east of US HWY 97, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: American Salt Company, 3142 Broadway, Kansas City, MO 94111; Hardy Salt Company, P.O. Drawer 449, St. Louis, MO 63116.

MC 150378 (Sub-6–1TA), filed March 20, 1980. Applicant: CHASE EXPRESS, INC., 555 Strander Blvd., Seattle, WA 98188. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *General commodities* (except Class A & B explosives) between points within the Seattle, WA commercial zone and between points within the Tacoma, WA commercial zone, restricted to shipments having a prior or subsequent movement by water, for 180 days. Supporting shippers: Hawaiian Marine Lines, 2401 4th Avenue, Seattle, WA 98111; A. J. Fritz & Co., 1400 South 192nd Street, Seattle, WA 98148; Evergreen United Corp. (agents for Evergreen) 4th & Battery Bldg., Seattle, WA 98121;

Nippon Yuren Kaisha, 1203 Pacific Bldg., 720 3rd Avenue, Seattle, WA 98104.

MC 149138 (Sub-6–1TA), filed March 21, 1980. Applicant: COLORADO, KANSAS, MISSOURI EXPRESS CO., d.b.a. CKM EXPRESS CO., P.O. Box 1183 (I–70, exit 243), Idaho Springs, CO 80452. Representative: Dan R. Sheehy, 201 Court Square Bldg., 1301 Spruce St., Boulder, CO 80302. (1) *Malt beverages and related advertising materials,* from Jefferson County, CO to AR; and (2) *empty used containers and materials and supplies used in and dealt with by breweries,* from AR to Jefferson County, CO, for 180 days. ETA was applied for these same commodities. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 135185 (Sub-6–2TA), filed March 24, 1980. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, CA 92705. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Contract Carrier,* Irregular Routes, *Vermin Exterminators, non-Agricultural Insecticides, and Insect Repellant.* From: Alliance, OH and points in its commercial zone; to Los Angeles and Union City, CA and points in their commercial zones. For the account of Lehn and Fehn Products Company, a Division of Sterling Drug, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lehn and Fink Products Company, a Division of Sterling Drug, Inc., 225 Summit Avenue, Montvale, NJ 07645.

MC 42487 (Sub-6–10TA), filed March 20, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* Regular routes: *General commodities, except those of unusual value, Classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and commodities injurious or contaminating to other lading.* (1) Between Chattanooga, TN and Nashville, TN: From Chattanooga over Interstate Hwy 24 to Nashville, and return over the same route. (2) Between Nashville, TN and Memphis, TN: From Nashville over Interstate Hwy 40 to Memphis, and return over the same route. (3) Between Memphis, TN and Dallas, TX: From Memphis over Interstate Hwy 40 to Little Rock, AR, then over Interstate Hwy 30 to Dallas, and return over the same route. (4) Between Dallas, TX and junction Interstate Hwy 20 and U.S. Hwy 290: From Dallas over Interstate Hwy 20 to junction Interstate Hwy 290, and return over the same route. Serving no intermediate point in connection with (1) through (4) described above, as alternate routes for operating convenience only in connection with carrier's presently authorized regular route operations, for 180 days; an underlying ETA seeks 90 days authority. Applicant intends to tack the authorities described above.

MC 113678 (Sub-6–3TA), filed March 24, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). *Lighting fixtures and parts of lighting fixtures* from the facilities of Lithonia Lighting Division of National Services, Inc., at or near Chattanooga, TN, to all points in ID, OR, WA, NV, UT, WY, CA, CO, MT, AZ and NM for 180 days. Supporting shipper: Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box h, 1400 Lester Road, Conyers, GA.

MC 115826 (Sub-6–3TA), filed March 21, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same as applicant). *General commodities* (except foodstuffs and commodities in bulk), between points in the United States (except AK and HI) for 180 days. Restricted to transportation of traffic originating at or destined to the facilities used by Hexcel Corporation. Supporting shipper: Hexcel Corporation, 11711 Dublin Boulevard, Dublin, CA 94566.

MC 124679 (Sub-6–10TA), filed March 24, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT. 84119. Representative: Robert H. Cannon (same as applicant). *Sporting goods, sporting goods apparel, and materials and supplies used in the manufacture and distribution and sale of such commodities* from Williston and Colchester, VT and Boston, MA to points in the States of CA, WA, and CO. Representative points: WA: Bellevue, Auburn, Seattle, Kent and Spokane; CO: Denver, Aspen, Lakewood, Boulder and Vail; CA: Santa Maria, Anaheim, Pasadena, San Francisco and San Rafael for 180 days. Supporting shipper: Rossignol Ski Company, Inc., P.O. Box 298, Williston, VT 05495.

Note.—Applicant holds motor contract carrier authority in number MC 128813 and sub numbers thereunder, threfore dual operations may be involved. An underlying ETA seeks 90 days authority.

MC 125433 (Sub-6–15TA), filed March 24, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). *Fireplaces, fireplace parts and related materials and supplies,* from Lynwood, CA to points in the United States (except AK and HI). Restricted to traffic originating at the facilities of Marco Manufacturing Co., Inc., for 180 days. Supporting shipper: Marco Manufacturing, Inc., 2520 Industry Way, Lynwood, CA 90262.

MC 150377 (Sub-6–1TA), filed March 20, 1980. Applicant: DAN FISHER, d.b.a. DAN FISHER TRUCKING CO., E. 9615 43rd, Spokane, WA 99206. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier:* irregular routes: *Garbage compactors, wood burning stoves and balers* from Spokane, WA to points in OR, CA, NV, AZ, UT, WY, CO, ID, NM, MT, TX and WA for 180 days. Supporting shipper: Kilkom, Inc., Bldg. 13, Spokane Industrial Park, Spokane, WA 99216.

MC 150377 (Sub-6–2TA), filed March 20, 1980. Applicant: DAN FISHER, d.b.a. DAN FISHER TRUCKING CO., E. 9615 43rd, Spokane, WA 99206. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier:* irregular routes: *Borax in bags,* from Boron, Westend and Los Angeles, CA to Seattle, Spokane and Coleville, WA for 180 days. Supporting shipper: Thermoguard Insulation Co., E. 8277 Kent Ave., Spokane, WA 99206.

MC 146588 (Sub-6–1TA), filed March 17, 1980. Applicant: FRONTIER TRANSPORT, INC., P.O. Box 15751, Salt Lake City, UT 84115. Representative: Byron W. Thomas (same address as applicant). *Contract carrier:* irregular routes: *salt* in bulk in end dump vehicles from Little Mountain, UT, to points in McKinley County, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Great Salt Lake Minerals and Chemicals Corp., P.O. Box 1190, Ogden, UT 84402.

MC 150379 (Sub-6–1TA), filed March 20, 1980. Applicant: MARVIN FRYE, 2916 S. 200th, Seattle, WA 98188. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle WA 98104. *Contract carrier:* irregular routes: *such commodities as are dealt in by retail department stores,* from Los Angeles, CA to Portland, OR and Seattle, WA for 180 days. Supporting shipper: Nordstrom, Inc., 1201 Andover Park East, Tukwila, WA.

MC 150347 (Sub-6–1TA), filed March 17, 1980. Applicant: HOBIN TRUCKING CO., INC., P.O. Box 709, Philomath, OR

97370. Representative: Thomas Y. Higashi, Attorney at Law, 2075 S.W. First Avenue—Suite #2–N, Portland, OR 97201. *Lumber and lumber mill products,* between the facilities of Hobin Lumber Co., Inc. and its affiliates, Hobin Forest Products and Hobin Planing Mill at or near Philomath, OR on the one hand and points and places in AZ, CA, NV, WA, and UT on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Hobin Lumber Co., Inc. and Hobin Forest Products, P.O. Box 709, Philomath, OR 97370; Evergreen Lumber Sales, Inc., P.O. Box 47, Junction City, OR 97448.

MC 148846 (Sub-6–1TA), filed March 20, 1980. Applicant: JETWAL, INC., P.O. Box 512, Sterling, CO 80751. Representative: Jack B. Wolfe, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Molasses and condensed steffens filtrate (in tank vehicles),* from Scottsbluff and Gering, NE and their commercial zones to the facilities of Cargill, Inc. at or near Sterling, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55440.

MC 148999 (Sub-6–1TA), filed March 24, 1980. Applicant: KAIBAB INDUSTRIES, INC., P.O. Box 36007, 2000 West Oxford Avenue, Denver, CO 80236. Representative: James C. Seccombe, Jr., Suite 717, American National Bank Building, 818 Seventeenth Street, Denver, CO 80202. *Contract carrier;* irregular routes; *flattened automobile bodies (Scrap metal)* from Rapid City, SD, and points in WY to Arapahoe County, CO., under a continuing contract with Milford Pepper d.b.a. Century Enterprises, 234 Columbine Street, Denver, CO 80206. Hearing site: Denver, CO.

MC 128527 (Sub-6–1TA), filed March 21, 1980. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Feed and Feed Supplements,* from Portland, OR and points in its commercial zone to points in ID south of the southern boundary of Idaho County, for 180 days. Supporting shipper: Albers Milling Co. (Division of Carnation Co.), 1118 N.W. Front Ave., Portland, OR 97209.

MC 128527 (Sub-6–2TA), filed March 21, 1980. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Roofing Materials,* from the facilities of Bird and Son, Inc. at or near Portland, OR to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bird & Son, Inc., 6350 N.W. Front, Portland, OR 97210.

MC 147712 (Sub-6–2TA), filed March 21, 1980. Applicant: MID–WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio, 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. *Products delt in by Super Markets,* between the facilities and retail outlets operated by Arden, Mayfair Markets in the eleven (11) Western States and Points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Harold Davis, Deli Buyer Merchandiser & Assistant Meat Buyer, Arden Mayfair Markets, 6191 Peach Tree, City of Commerce, CA 90040.

MC 70903 (Sub-6–1TA), filed March 25, 1980. Applicant: OKANOGAN–SEATTLE TRANSPORT CO., INC., P.O. Box 722, Ellensburg, WA 98926. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Decorative white rock and dolomite lime* from points on the international boundary line between the United States and Canada at or near Oroville, WA to points in ID, MT, OR and WA, for 180 days. Supporting shipper: Dolowhite Mines Ltd., PO Box 10, Rock Creek, B.C., Canada, V0H 1Y0.

MC 124692 (Sub-6–2TA), filed March 24, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55402. *Empty wooden reels and wooden pallets,* from Lodi, CA to Billings, MT, for 180 days. Supporting shipper: Wickes Forest Industries, 214 South Cluff Avenue, Lodi, California 95240.

MC 146360 (Sub-6–1TA), filed March 25, 1980. Applicant: FLOYD SMITH, JR., TRUCKING, INC., P.O. Box 816, Meridian, ID 83642. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. (1) *Frozen Concentrated Orange Juice,* from points in FL to the facilities of Allied Sysco Food Services, Inc. at or near Hayward, CA, and, (2) *Potato Products,* from points in WA and WI to the facilities of Allied Sysco Food Services, Inc. at or near Hayward, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Allied Sysco Food Services, Inc., 30977 San Antonio St., Hawyard, CA 94544.

MC 125561 (Sub-6–1TA), filed March 24, 1980. Applicant: SUNNYSIDE TRANSFER, INC., P.O. Box 526, Sunnyside, WA 98944. Representative: R. Sanders (same address as above). *Common carrier; regular routes: Furniture* having had previous movement by rail, from Kennewick and Pasco, WA to Aloha, Beaverton, Clackamas, Gresham, Hillsboro, Milwaukee, Oregon City, Portland, Tigard, and Woodburn, OR for 180 days. Supporting shipper(s): Pasco Pool Car Agency, P.O. Box 65, Pasco, WA 99301.

MC 125561 (Sub-6–2TA), filed March 24, 1980. Applicant: SUNNYSIDE TRANSFER, INC., 7th & Railroad, P.O. Box 526, Sunnyside, WA 98944. Representative: R. G. Sanders (same address as above). *Common carrier; regular routes: Furniture* having had previous movement by rail, from Kennewick and Pasco, WA, to Aberdeen, Auburn, Bellevue, Bellingham, Centralis, Chehalis, Dayton, Ellensburg, Everett, Grandview, Hoquiam, Issaquah, Kennewick, Kent, Kirkland, Longview, Olympia, Pasco, Prosser, Pullman, Puyallup, Raymond, Renton, Richland, Seattle, Selah, Shelton, Spokane, Sunnyside, Tacome, Toppenish, Vancouver, Walla Walla, Wapato, and Yakima, WA, for 180 days. Supporting shipper(s): Pasco Pool Car Agency, P.O. Box 65, Pasco, WA 99301.

MC 26396 (Sub-6–13TA), filed March 24, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, Montana 59107. Representative: Barbara S. George (same as applicant). *Drilling mud and drilling mud additives* (except in bulk, in tank vehicles), from Gascoyne, ND; Malta, MT; Lovell, Upton, Greybull, Colony and Green River, WY; and Custer, SD to points in AL, AR, KS, LA, MS, NM, OK and TX, for 180 days. Supporting shipper: Milchem, Inc., 3920 Essex Lane, P.O. Box 22111, Houston, TX 77027.

MC 26396 (Sub-6–14TA), filed March 24, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, Montana 59107. Representative: Barbara S. George, P.O. Box 31357, Billings, Montana 59107. *Chemicals and additives used in petroleum and gas exploration and water treatment* between the facilities of Van Waters & Rogers at or near Denver, CO on the one hand, and on the other, points in GA, ID, IN, KY, MT, ND, OH, TN, TX, WA, WV and WY, for 180 days. Supporting shipper: Van Waters & Rogers, Division of Univar, Box 30453, Billings, MT 59107.

MC 26396 (Sub-6–15TA), filed March 24, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, Montana 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebraska 68501. *Drilling Mud and Drilling Mud Additives* (except in bulk) from points in and east of WI, IL, MO, OK and TX, to ports of entry on the

International Boundary line between the U.S. and Canada located in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United Mud Supply, Ltd., 4316 D 64th Avenue S.E., Calgary, Alberta T3C 2B3.

MC 140016 (Sub-6–1TA), filed March 25, 1980. Applicant: TRANSPORTATION SERVICES, INC., 1320 E. Glendale Avenue, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson, City, NV. 89701. (1) *Commodities ordinarily dealt in by retail food stores* and materials and supplies used in cleaning, maintenance and operation of retail food stores, (2) *commodities which are exempt from economic regulation per USC, 49, Section 10526(a),* when moving in the same shipments with commodities described in (1) above, between the facilities of Buttrey Food Stores located in Washoe County, NV and facilities of Buttrey Food Stores and their suppliers located in AZ, CA, OR, WA, WY, MT, MN, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Buttrey Food Stores, 601 6th Street S.W., Great Falls, MT 59601.

MC 135803 (Sub-6–3TA), filed March 24, 1980. Applicant: WALLACE TRANSPORT, 9290 E. Hwy. 140 (P.O. Box 67), Planada, CA 95365. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Confectionery,* (1) from the plantsite of Hershey Chocolate Company at or near Oakdale, CA to points in NV; and (2) from the plantsite of E. J. Brach & Son at Reno, NV to points in CA, for 180 days. Supporting shippers: Hershey Chocolate Company, 1400 S. Yosemite Ave., Oakdale, CA 95361; E. J. Brach & Son.

MC 141804 (Sub-6–18TA), filed March 21, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). (1) Such commodities as are dealt in by manufacturers and distributors of *small electric appliances* and (2) such materials, equipment and supply commodities as are dealt in by manufacturers and distributors of *small electric appliances,* (1) from facilities of Hamilton Beach at Washington, NC; Clinton, NC; Farmville, NV and Byesville, OH to points in the U.S. (except AK and HI), and (2) from points in the U.S. (except AK and HI), to facilities of Hamilton Beach Div. at Washington, NC; Clinton, NC; Farmville, NC and Byesville, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Betty Godley, Traffic Manager, Hamilton Beach, Division of Scoville, Inc., P.O. Box 1158, Washington, NC 27889.

MC 141804 (Sub-6–19TA), filed March 24, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Electrical appliances and electrical sending and receiving equipment, parts and accessories for the above items,* from Little Ferry, NJ to points in CA, IL, IN, MI, OH, PA, TX and VA, for 180 days. Supporting shipper: Walter Kahl, Traffic/Import Manager, Sanyo Electric, Inc., 200 Riser Road, Little Ferry, NJ 07643.

MC 141804 (Sub-6–20TA), filed March 24, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Bathroom and lavatory supplies and equipment* from the facilities of Bootz Manufacturing at or near Evansville, IN to Colton and City of Industry, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: W. C. Phelps, Manager of Sales, 1400 Park Street, Evansville, IN 47710.

MC 117786 (Sub-6–7TA), filed March 24, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Malt beverages and materials and supplies used in and dealt with by breweries (except commodities in bulk),* from the facilities of Carling National Breweries, Inc. at Phoenix, AZ to points in CA, CO, NM, NV, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Carling National Breweries, Inc., 150 S. 12th St., Phoenix, AZ 85034.

MC 117786 (Sub-6–8TA), filed March 25, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Alcoholic beverages (except in bulk in tank vehicles),* from Peoria and Plainville, IL and CA to the facilities of McKesson Wine & Spirits Co. in Denver, CO., for 180 days. Supporting shipper: McKesson Wine & Spirits Co., P.O. Box 5388 TA, Denver, CO 80217.

MC 89684 (Sub-6–1TA), filed March 21, 1980. Applicant: WYCOFF COMPANY, INC., 560 South 300 West, P.O. Box 366, Salt Lake City, UT 84110. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, D.C. 20006. Common carrier, regular and irregular routes, *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) restricted against the transportation of shipments which weigh in the aggregate more than 500 pounds, from one consignor to one consignee on one day, and in which any single piece exceeds 100 pounds in weight; over presently authorized routes in UT, NV, CA, ID, WY and CO; including the right to interline at Reno, NV for 180 days. Applicant is seeking to increase its existing aggregate weight limit from 200 to 500 pounds. An underlying ETA seeks 90 days authority. There are 51 shippers. Their statements may be examined at the office listed below.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–10369 Filed 4–4–80; 8:45 am]

BILLING CODE 7035–01–M

Agricultural Cooperatives; Commission of Intent to Perform Interstate Transportation for Certain Nonmembers

Dated: April 2, 1980.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Dawson Mills.

Principal Mailing Address (Street No., City, State, and Zip Code): Diagonal and 8th St., Dawson, MN 56232.

Where Are Records of Your Motor Transportation Maintained (Street No.,

City, State and Zip Code): Diagonal and 8th St., Dawson, MN 56232.

Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): Keith R. Springer, P.O. Box BB, Dawson, MN 56232.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Hungry Valley Trucking Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): Route No. 4, Box 315, Vale, NC 26168.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): Rt. 4, box 315, Vale, NC 28168.

Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): K. Dean Black, 201 S. Poplar St., Lincolnton, NC 28092.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Land O'Lakes, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 116, Minneapolis, MN 55440.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): 614 McKinley Place, N.E., Minneapolis, MN 55413.

Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): Harold O. Hoelscher, P.O. Box 116, Minneapolis, MN 55440.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Nationwide Distributors, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): 26 Willis Street, Framingham, MA 01701.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): 26 Willis Street, Framingham, MA 01701.

Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): Gene S. Bula, Rt. 1, Plainfield, WI.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Sterling Colorado Beef Company.

Principal Mailing Address (Street No., City, State, and Zip Code): Box 1728, Sterling, CO 80751.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): Box 1728, Sterling, CO 80751.

Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): William J. Lippman, 50 South Steele Street, Denver, CO 80209.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-10367 Filed 4-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: April 1, 1980.

In our decisions of February 26, March 4, 11, 18, and 25, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4 percent, we are authorizing that the 13-percent surcharge remain in effect. All owner-operators are to receive compensation at the 13-percent level. No change will be made in the existing authorization of a 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, in the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is Ordered: This decision shall become effective Friday 12:01 a.m., April 4, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum and Alexis. Chairman Gaskins not participating, Commissioner Stafford absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

March 31, 1980 ..... 114.0¢

	(1) From transportation performed by owner-operators[1]	(2) Other[2]	(3) Bus Carrier	(4) UPS
Average percent: Fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.4	2.3	5.0	[3] 2.1
Percent surcharge allowed	13.0	2.3	5.0	[4] 1.3

[1] Apply to all truckload rated traffic.

[2] Including less-than-truckload traffic.

[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[4] The developed surcharge figure is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80-10366 Filed 4-4-80; 8:45 am]

BILLING CODE 7035-01-M

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and practicipation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request it dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC–F–14253F, filed December 10, 1979. Applicant: MALONE FREIGHT LINES, INC. (Malone) (3400 Third Avenue South, Birmingham, AL 35202)—Purchase (portion)—STRICKLAND TRANSPORTATION CO., INC. (Strickland) (11353 Reed Hartman Hwy, Cincinnati, OH 45241). Representatives: Guy H. Postell, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326, and Milton H. Bortz, 11353 Reed Hartman Hwy, Cincinnati, OH 45241. Malone seeks to purchase a portion of the interstate operating rights of Strickland. J. R. Oden, Sr., the majority stockholder of Malone, also seeks to acquire control of such rights through the transaction. Malone is purchasing the interstate operating rights that are contained in Strickland's certificates in MC–59680 and sub-numbers thereunder which authorize the transportation of the following: (A) Over regular routes: (1) *general commodities* (a) between Fordyce, AR, and junction U.S. Hwy 70 and AR Hwy 11: From Fordyce over U.S. Hwy 79 to Stuttgart, AR, then over AR Hwy 11 to junction U.S. Hwy 70, and return over the same route; (b) between Little Rock, AR, and Cariola Landing and Wilmot, AR, and West Monroe, LA: (i) from Little Rock over U.S. Hwy 65 to Dumas, AR, then over unnumbered hwy via Winchester and McGehee, AR, to junction U.S. Hwy 65, then over U.S. Hwy 65 via Lake Village, AR, to Eudora, AR, and then over unnumbered hwy to Cariola Landing, (ii) from Little Rock to McGehee as specified above, then over unnumbered hwy to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction unnumbered hwy, then over unnumbered hwy via Dermott, AR, to junction U.S. Hwy 165, then over U.S. Hwy 165 to Montrose, AR, then over U.S. Hwy 82 to Lake Village, and then as specified above to Cariola Landing, (iii) from Little Rock to Montrose as specified above, then over U.S. Hwy 165 to Wilmot, and (iv) from Little Rock over U.S. Hwy 65 to junction AR Hwy 81, then over AR Hwy 81 to Hamburg, AR, then over unnumbered hwy (formerly U.S. Hwy 82) to junction U.S. Hwy 82, then over U.S. Hwy 82 to Crossett, AR, then over AR Hwy 133 to junction AR–LA State line, then over unnumbered hwy to junction LA Hwy 204, then over LA Hwy 204 to Bastrop, LA, then over U.S. Hwy 165 to Monroe, LA (also from Bastrop over LA Hwy 14 to Monroe), and then over U.S. Hwy 80 to West Monroe and return over these routes to Little Rock; (c) between Pine Bluff, AR, and Monticello, AR: from Pine Bluff over AR Hwy 15 to Warren, AR, then over AR Hwy 4 to Monticello, and return over the same route; and (d) between Lake Village, AR, and Greenville, MS, over U.S. Hwy 82, with service authorized in (a) through (d) above to and from all intermediate points on the above-specified routes; and (2) *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Pine Bluff, AR, and the Pine Bluff Municipal Airport, AR: from Pine Bluff over U.S. Hwy 65 to junction unnumbered hwy, then over unnumbered hwy to Pine Bluff Municipal Airport, and return over the same route, with service not authorized to or from intermediate points except as otherwise authorized. (B) Over alternate routes for operating convenience only: *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 Hamburg, AR, and Bastrop, LA, in connection with carrier's authorized regular-route operations between Little Rock, AR, and Monroe, LA, serving no intermediate points: from Hamburg over AR Hwy 81 to the AR–LA State line, then over LA Hwy 139 to Bastrop, and return over the same route. (C) Over alternate routes for operating convenience only: *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 Wilmot, AR, and Bastrop, LA, over U.S. Hwy 165, in connection with carrier's presently authorized regular-route operations, serving no intermediate points, restricted against the transportation of traffic originating at and destined to points in LA. (D) Over alternate routes for operating convenience only: *general commodities* (except classes A and B explosives, commodities in bulk, and those requiring special equipment), (a) between Fordyce, AR, and Warren, AR, over AR Hwy 8, (b) between Monticello, AR, and McGehee, AR, over AR Hwy 4, (c) between Monticello, AR, and Dermott, AR, over AR Hwy 35, (d) between Hamburg, AR, and Montrose, AR, over U.S. Hwy 82, (e) between Hamburg, AR, and Parkdale, AR, over AR Hwy 8, (f) between Parkdale, AR, and Eudora, AR, over AR Hwy 8, (g) between Little Rock, AR, and Fordyce,

AR, over U.S. Hwy 167, (h) between Star City, AR, and Gould, AR, over AR Hwy 114, (i) between Rison, AR, and Calmer, AR; from Rison over AR Hwy 35 to junction AR Hwy 114, then over AR Hwy 114 to Calmer, and return over the same route, (j) between Calmer, AR, and Star City, AR, over AR Hwy 114, and (k) between Monticello, AR, and Dumas, AR: from Monticello over AR Hwy 83 to junction AR Hwy 54, then over AR Hwy 54 to Dumas, and return over the same route, service in (a) through (k) above is in connection with carrier's authorized regular-route operations, serving no intermediate points. (E) Over regular routes: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New Orleans, LA, and Monroe, LA: from New Orleans over U.S. Hwy 61 to Natchez, MS, then over U.S. Hwy 84 to Ferriday, LA, then over U.S. Hwy 65 to Clayton, LA, then over LA Hwy 15 to Monroe, and return over the same route, serving those intermediate points in LA between Baton Rouge and Monroe, including Baton Rouge. (F) *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) over regular routes, between New Orleans, LA, and Monroe, LA, serving all intermediate points in LA: from New Orleans, over U.S. Hwy 61 to Natchez, MS, then over U.S. Hwy 84 to Ferriday, LA, then over U.S. Hwy 65 to Clayton, LA, then over LA Hwy 15 to Monroe, and return over the same route, restricted to the transportation of shipments moving to, from or through New Orleans and points within 10 miles thereof, and further restricted against tacking with the underlying irregular-route authority contained herein, and subject to the conditions that the authority shall not be severable by the sale or otherwise from the following underlying irregular-route authority; and (2) over irregular routes, between New Orleans, LA, and points within 10 miles of the corporate limits of New Orleans, on the one hand, and, on the other, points in LA within the area bounded by a line drawn from New Orleans along Interstate Hwy 10 to the LA–MS State line, then northerly along the MS–LA State line to the junction of the AR–LA–MS State line at or near Milikin, LA, then along the AR–LA State line to junction with U.S. Hwy 167 at or near Junction City, AR, then southerly along U.S. Hwy 167 to its junction with U.S. Hwy 71 at or near Alexandria, LA, then along U.S. Hwy 71 to its junction with U.S. Hwy 190 at or near Krotz Springs, LA, then along U.S. Hwy 190 to its junction with LA Hwy 30 at or near Baton Rouge, then along LA Hwy 30 to its junction with LA Hwy 74 at or near St. Gabriel, then along LA Hwy 74 to its junction with LA Hwy 75 at or near St. Gabriel, then along LA Hwy 75 to its junction with LA Hwy 22 at or near Darrow, then along LA Hwy 22 to its junction with LA Hwy 44, at or near Burnside, then along LA Hwy 44 to Reserve, then along the Mississippi River to the point of beginning at New Orleans, LA, subject to the restrictions that with the exception of New Orleans, LA, service is not authorized at any points located on the boundary hwys along which the described boundary-line has been drawn and that the carrier shall not, pursuant to the underlying irregular-route authority contained herein, serve any points authorized herein as well as points in their respective commercial zones, which are to be served by it in regular-route operations. Malone is authorized to operate pursuant to Certificate MC–75840 and sub-numbers thereunder, as a motor common carrier, in the States of FL, AR, TX, LA, MS, TN, AL, GA, SC, NC, KY, VA, OH, WV, MD, DE, DC, PA, NJ, NY, MD, CT, and RI. (Hearing site: Atlanta, GA.)

Notes.—(1) Application for temporary authority has been filed. (2) A directly related Gateway Elimination and Conversion application has been filed in MC–75840 (Sub-No. 134F) which seeks to allow Malone to join or tack the above-described irregular-route authority to vendee's present irregular-route operating authority at the common point of New Orleans, LA, and to convert the above-described regular-route authority to irregular-route authority and to join or tack such resulting irregular-route authority to vendee's irregular-route authority at the common points of Little Rock, AR, New Orleans, LA, and Greenville, MS, and to eliminate those three gateway points.

Decided: March 26, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor & Williams.

MC–F–14323F, filed February 26, 1980. Applicant: COLES EXPRESS (Coles) (444 Perry Road, Bangor, ME 04401)—Purchase—Lorne E. Ayer, Jr., d.b.a. Ayer's Express (Ayer) (41 Greenfield Avenue, Warwick, RI 02886). Representative: John F. O'Donnell, 60 Adams Street, P.O. Box 238, Milton, MA 02187. Coles seeks authority to purchase the interstate operating rights of Ayer. Cole Enterprises, a non-carrier and sole stockholder of Coles, and in turn, Galen L. Cole, the majority stockholder of Cole Enterprises, seek authority to acquire control of said rights through the transaction. Coles is purchasing the interstate operating rights of Ayer Contained in Certificate No. MC–79019 which authorizes the transportation, as a motor common carrier, over irregular routes, of *general commodities* (usual exceptions), between points in MA and RI within 10 miles of Providence, RI, including Providence. Coles is authorized to operate as a motor common carrier in the States of MA, NH, and ME, pursuant to certificates issued in MC–93682 and sub-numbers thereunder. Condition: Concurrently with consummation of this transaction, Cole Enterprises, a non-carrier with investments and functions primarily related to transportation, will be considered a motor carrier within the meaning of 49 U.S.C. 11348. Therefore, it will be subject to the applicable provisions of 49 U.S.C subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. (Hearing site: Boston, MA.)

Notes.—(1) Application for temporary authority has been filed. (2) A directly related gateway application has been filed in MC–93682 (Sub-No. 20F), published in this same **Federal Register** issue.

Decided: March 26, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor & Williams.

Decision-Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In

deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* the following operating rights applications directly related thereto filed on or before May 7, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 5, Members.

MC 75840 (Sub-134F), filed December 10, 1979. Applicant: MALONE FREIGHT LINES, INC.—gateway elimination and conversion—3400 Third Avenue, South, Birmingham, AL 35202. Representative: Guy H. Postell, suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326. To operate as a *common carrier*, in interstate or foreign commerce, by motor vehicle, over irregular routes, transporting (A) *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in LA within the area bounded by a line drawn from New Orleans along Interstate Hwy 10 to the LA–MS State line, then along the MS–LA State line to the junction of the AR–LA–MS State line at or near Milikin, LA, then along the AR–LA State line to junction U.S. Hwy 167 at or near Junction City, AR, then along U.S. Hwy 167 to junction U.S. Hwy 71 at or near Alexandria, LA, then along U.S. Hwy 71 to junction U.S. Hwy 190 at or near Krotz Springs, LA, then along U.S. Hwy 190 to junction LA Hwy 30 at or near Baton Rouge, then along LA Hwy 30 to junction LA Hwy 74 at or near St. Gabriel, then along AL Hwy 74 to junction with LA Hwy 75 at or near St. Gabriel, then along AL Hwy 75 to junction LA Hwy 22 at or near Darrow, then along LA Hwy 22 to junction LA Hwy 44 at or near Burnside, then along LA Hwy 44 to Reserve, then along the Mississippi River to the point of beginning at New Orleans, LA (except service is not authorized at any point located on the boundry highways along which the boundry-line has been drawn), on the one hand, and, on the other, Montgomery, AL, points in DE, VA, MD, NJ, PA, DC, those points in AL within 65 miles of Birmingham, including Birmingham, and points within 25 miles of Florence, including Florence, and those points in NY on the south of a line beginning at Oswego and extending along NY Hwy 104 to Mexico, then along NY Hwy 69 to Rome, then along NY Hwy 49 to Utica, then along NY Hwy 5 to Schenectady, then along NY Hwy 7 to Troy, and then along NY Hwy 2 to the NY–MA State line, restricted against the transportation of traffic to or from any point located in the territory embraced in (B), paragraphs (1) through (6) below. (B) *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 junction U.S. Hwy 70 and AR Hwy 11, Fordyce and Stuttgart, AR, those points in AR on U.S. Hwy 79 between Fordyce and Stuttgart, AR, and those in AR on AR Hwy 11 between Stuttgart, AR, and junction U.S. Hwy 70 and AR Hwy 11; (2) Between Little Rock and Lake Village, AR, Greenville, MS, those points in AR on U.S. Hwy 65 between Little Rock and Lake Village, AR, and those in AR and MS on U.S. Hwy 82 between Lake Village, AR, and Greenville, MS; (3) Between Little Rock and Wilmont, AR, and those points in AR on U.S. Hwy 165 between Wilmont, AR, and junction U.S. Hwy 165 and U.S. Hwy 65 near Dermott, AR; (4) Between Liitle Rock, Pine Bluff, Hamburg, Crossett, Warren, and Monticello, AR, Bastrop, LA, those points in AR on AR Hwy 81 between Pine Bluff and Hamburg, AR, those in AR on U.S. Hwy 82 between Hamburg and Crossett, AR, those in AR on AR Hwy 15 between Warren and Pine Bluff, AR, and those in AR on AR Hwy 4 between Warren and Monticello, AR; (5) Between Little Rock, Eudora, and Lake Village, AR, and those points in AR on U.S. Hwy 65 between Lake Village and Eudora, AR; (6) Between Bastrop, New Orleans, Monroe, and Ferriday, LA,

those points in LA on U.S. Hwy 165 between Bastrop and Monroe, LA, those in LA on LA Hwy 15 between Monroe and Ferriday, LA, and those in LA on U.S. Hwy 61 between the LA–MS State line and New Orleans, LA. (7) Between points in (1) through (6) above, on the one hand, and, on the other, Montgomery, AL, points in DE, VA, MD, NJ, PA, DC, those points in AL within 65 miles of Birmingham, including Birmingham, and points within 25 miles of Florence, including Florence, and those points in NY on and south of a line beginning at Oswego and extending along NY Hwy 104 to Mexico, then along NY Hwy 69 to Rome, then along NY Hwy 49 to Utica, then along NY Hwy 5 to Schenectady, then along NY Hwy 7 to Troy, and then along NY Hwy 2 to the NY–MA State line. This application is directly related to MC–F–14253F, a proceeding pursuant to 49 U.S.C. 11343, published in this same **Federal Register** issue.

Notes.—The operating authorities in (1) through (6) above may be tacked or joined together at common points for providing a through service.

The purpose of (A) above is to allow joinder or tacking with applicant's present irregular-route authority and that authority sought to be purchased in MC–F–14253F, and to eliminate the gateway of New Orleans, LA, in order to provide a through service.

(i) The purpose of the authority described in (B) (1 through 6) above, is to convert regular-route authority to irregular-route authority and to allow the tacking or joining of such rights at authorized common points. (ii) The purpose of (B)(7) above is to eliminate the internal gateways of Bastrop, LA, Pine Bluff, AR, Little Rock, AR, and all others that are created in (B) (1 through 6) and to allow joinder or tacking of all points in (B) (1 through 6) above with applicant's present irregular-route authority, and to eliminate the gateways of New Orleans, LA, Greenville, MS, and Little Rock, AR, in order to provide a through service.

MC 93682 (Sub-20F), filed February 26, 1980. Applicant: COLES EXPRESS—gateway elimination—444 Perry Road, Bangor, ME 04401. Representative: John F. O'Donnell, 60 Adams Street, P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ME, MA, and those in Hillsboro and Rockingham Counties, NH, on the one hand, and, on the other, Providence, RI, and points within 10 miles of Providence.

Note.—(1) The purpose of this application is to eliminate the gateways at points in MA within 10 miles of Providence in order to provide a through service. This through service also includes the elimination of several of Cole's internal gateways that fall within the 300-mile exemption of Ex Parte No. 55 (Sub-No. 8). (2) This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. § 11343 in MC–F–1433F, published in this same **Federal Register** issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 10368 Filed 4–4–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

U.S. Circuit Judge Nominating Commission First Circuit Panel; Chairperson: Jerome P. Facher

The First Circuit Panel of the United States Circuit Judge Nominating Commission will meet on April 15 at the office of Hale and Dorr, 60 State Street, Boston, Massachusetts at 2:00 p.m. This meeting will be closed to the public pursuant to Pub. L. 92–463, Section 10(d) as amended (CF 5 U.S.C. 552b(c)(6)). Due to the short time allotted the panel to make its recommendations to the President, it was not possible to provide a full 15 day notice.

Phillip B. Cover,

Advisory Committee Control Officer.

[FR Doc. 80–10357 Filed 4–4–80; 8:45]

BILLING CODE 4410–01–M

Vacancy on U.S. Court of Appeals for the First Circuit

By appointment of the President, a panel of the U.S. Circuit Judge Nominating Commission has been constituted to consider prospective nominees to fill a vacant judgeship on the Court of Appeals in this Circuit. The panel must submit to the President by May 20, 1980 the names of not more than six persons deemed well qualified to be a judge of the U.S. Court of Appeals.

Anyone may submit suggested nominees to the panel for consideration, and anyone may request that he or she be considered.

To be considered by the panel a person must be a member of the bar in good standing. Important factors in determining whether a person is well qualified are professional competence, extent and nature of legal experience, character, temperament, and health. A proposed nominee should normally have 12 to 15 years of legal experience and be physically and mentally capable of sustained work on difficult intellectual problems, with the potential for rendering long and energetic service on the Federal bench.

Experience of particular relevance may have been acquired in these areas: (a) substantial appellate experience as a lawyer or judge; (b) substantial trial court experience as a lawyer or judge; (c) substantial Federal law mastery as demonstrated by teaching or by professional association with public or private offices dealing extensively with Federal law; (d) substantial legal writing with relationship to Federal law; (e) substantial experience in judicial education or law reform activity of a highly professional nature, with some correlation to Federal matters. Generally experience in at least two of three areas will be required. In cases of substantial and outstanding service as a Federal or state judge, experience in one of these areas will be sufficient.

For this vacancy the panel will confine its consideration to persons from Massachusetts, Rhode Island and Puerto Rico.

Persons who wish to be considered or who wish to submit names of proposed nominees should do so in writing addressed to the Chairman of the Panel, Jerome P. Facher, Esq., Hale and Dorr, 60 State Street, Boston, Massachusetts 02109. Though not required, it will be helpful if reasons are given why the person suggested is well qualified for this judicial position.

Suggested nominees, or persons who wish to be considered, should complete application questionnaires which must be mailed to the Chairman of the Panel no later than May 1, 1980. Application forms will be available from Jerome P. Facher at the address listed above.

Other members of the panel are:

Rae B. Condon, Providence, Rhode Island.
Paul A. Freund, Cambridge, Massachusetts.
Ida Marie Wilson, Augusta, Maine.
Clifford J. Ross, Manchester, New Hampshire.
Thomas R. Peterson, O.P., Providence, Rhode Island.
Charles H. Abbott, Lewiston, Maine.
Franklin Delano Lopez, San Juan, Puerto Rico.
Geraldine Limbardo, Hingham, Massachusetts.
Diane Lund, Cambridge, Massachusetts.
Frieda Garcia, Boston, Massachusetts.

Phillip B. Cover,

Advisory Committee, Control Officer.

[FR Doc. 80–10356 Filed 4–4–80; 8:45 am]

BILLING CODE 4410–01–M

Law Enforcement Assistance Administration

Request for Comments on the Proposed LEAA Guideline: Delinquency Prevention Research and Development; Correction

In FR Doc. 80–7519 appearing on page 16126 in the issue of Wednesday, March 12, 1980, in the last line of the first column, change *on or before April 1, 1980* to *on or before April 11, 1980.*

David D. West,

Director, Formula Grants and Technical Assistance Division.

[FR Doc. 80–10560 Filed 4–4–80; 8:45 am]

BILLING CODE 4410–18–M

Requests for Comments on the Proposed LEAA Guideline: Removing Children From Adult Jails and Lock-Ups

Correction

In FR Doc. 80–8962 appearing on page 19524 in the issue of Tuesday, March 25, 1980, in the second line of the second column of page 19524, change ". . . April 15, 1980 . . ." to ". . . April 25, 1980 . . .".

BILLING CODE 1505–01–M

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

Full Council Meetings; Time Change

April 2, 1980.

On March 19, 1980, the National Advisory Council on Economic Opportunity announced that it will hold meetings on April 21 and 22, 1980 starting at 9:30 a.m. EST at its office, 1725 K Street, N.W., Suite 405, Washington, D.C. (45 FR 17702). The time of the April 21 meeting has been changed to 1 p.m. All other information remains the same.

Walter B. Quetsch,

Executive Director.

[FR Doc. 80–10399 Filed 4–4–80; 8:45 am]

BILLING CODE 6820–42–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–2909]

Alabama Nuclear Fuel Fabrication Plant (ANFFP), Westinghouse Electric Corp.; Issuance of Special Nuclear Material License; Extension of Opportunity To Request for Hearing

AGENCY: U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety.

ACTION: Notice of Extension to June 14, 1980, of Opportunity to File Request for Hearing.

Notice has previously been given (March 6, 1980, 45 FR 14724) that Westinghouse Electric Corporation has submitted an application for a Special Nuclear Material license authorizing Westinghouse to acquire, deliver, receive, possess, use and initially transfer special nuclear material, for its Nuclear Fuel Division, Alabama Nuclear Fuel Fabrication Plant (ANFFP), a new facility proposed for location near Prattville, Alabama. The **Federal Register** notice cited above further stated that persons who wished to file a request for hearing should do so by April 7, 1980.

The March 6, 1980, **Federal Register** notice also stated that the applicant's Environmental Report and supplements thereto would be provided to the State Clearinghouse, Alabama Development Office, c/o State Capitol, Montgomery, Alabama 36130; and the Metropolitan Clearinghouse, Central Alabama Regional Planning and Development Commission, 808 Lawrence Street, Montgomery, Alabama 36104. Because these documents did not arrive in sufficient time for review, the deadline for filing petitions requesting a hearing has been extended to June 14, 1980.

Questions should be directed to W. T. Crow, U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, 396–SS, Washington, D.C. 20555, Phone (301) 427–4510.

Dated at Silver Spring, Maryland this 3rd day of April 1980.

For the Nuclear Regulatory Commission.

R. G. Page,

Acting Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 80–10626 Filed 4–4–80; 10:06 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Licensee Event Reports (LERs); Meeting

The ACRS Subcommittee on Licensee Event Reports (LERs) will hold a meeting on April 22, 1980, in Room 1046, 1717 H St., N.W., Washington, DC 20555. Notice of this meeting was published March 19, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, April 22, 1980, 8:30 a.m. until conclusion of business

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).

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Andrew L. Bates (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated April 1, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–10299 Filed 4–4–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Site Evaluation; Meeting

The ACRS Subcommittee on Site Evaluation will hold a meeting on Tuesday, April 22, 1980 in room 1046, 1717 H St. NW., Washington, DC 20555 to 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."

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only

by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, April 22, 1980, 1:00 p.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Peter Tam (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EST.

Dated: April 1, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–10300 Filed 4–4–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Concrete and Concrete Structures; Meeting

The ACRS Subcommittee on Concrete and Concrete Structures will hold a meeting on April 22–23, 1980 in Room 1167, 1717 H St., NW., Washington, DC to review "user needs" in structural engineering and the way in which these needs have been and are being met. Notice of this meeting was published March 19, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for this meeting shall be as follows:

Tuesday and Wednesday, April 22 and 23, 1980, 8:30 a.m. until the conclusion of business each day

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted for the presentations can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio G. Igne (telephone 202/634–3314) between 8:15 a.m. and 5:00 p.m., EST.

Dated April 1, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–10301 Filed 4–4–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–220]

Niagara Mohawk Power Corp.; Issuance of Facility License Amendment

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR–63 to Niagara Mohawk Power Corporation (the licensee) which revised the License and Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to modify the power-to-flow curve and allow additional operational flexibility during plant load changes. In addition, corrections have been made to the license to reflect the present power limitations at the end of cycle.

The applications for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 28, 1979, (2) Amendment No. 36 to License No. DPR–63, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Dircector, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of March 1980.

For The Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 80–10303 Filed 4–4–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-387 and 50-388]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Availability of Draft Supplement to the Draft Environmental Statement for Susquehanna Steam Electric Station, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Supplement to the Draft Environmental Statement (NUREG-0564) prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania, is being made available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, DC, and in the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania. The Draft Supplement is also being made available at the Pennsylvania State Clearinghouse, Governor's Budget Office, Intergovernmental Relations Division, Harrisburg, Pennsylvania, and at the Luzerne County Planning Commission, Court House, Wilkes-Barre, Pennsylvania, and the Economic Development Council of Northeast Pennsylvania, Avoca, Pennsylvania. The Draft Supplement is related to the construction and operation of the Pond Hill Low-Flow Augmentation Reservoir. The purpose of the proposed reservoir is to supply water to the Susquehanna River during periods of low riverflow to replace the water consumptively used by the Susquehanna Steam Electric Station. Requests for copies of the Draft Supplement to the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Director, Division of Technical Information and Document Control.

The Applicant's Environmental Report, as supplemented, submitted by Pennsyvania Power and Light Company and Allegheny Electric Cooperative, Inc., is also available for public inspection at the above designated locations. Notice of availability of the Applicant's Environmental Report was published in the **Federal Register** on August 9, 1978 (43 FR 35406). Notice of availability of the Draft Environmental Statement was published in the **Federal Register** on July 6, 1979 (44 FR 39648).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, the Draft Environmental Statement, and the Draft Supplement to the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report, the Draft Environmental Statement and the Draft Supplement to the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by May 27, 1980. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, DC and the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania. Upon consideration of comments submitted with respect to the Draft Environmental Statement and the Draft Supplement to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register**.

Comments on the Draft Supplemental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 31st day of March 1980.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 80-10306 Filed 4-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 and 64 to Facility Operating License Nos. DPR-44 and DPR-56, issued to the Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications relating to core monitoring, core flooding and cooling system operability requirements. The effect of the revised Technical Specifications would be (1) to allow dewatering of the suppression chambers (tours) during refueling outages, provided adequate core flooding inventory is available and no operations are being performed which have a potential for draining the reactor vessel, (2) to allow unloading and reloading the core under special conditions without having 3 counts per second (cps) on the source range monitors (SRMs) and (3) to allow the reactor protection system instrumentation to be inoperable when the reactor is compeltely defueled.

The application for the amendements 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 amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated January 14, 1980, (2) Amendment Nos. 65 and 64 to License Nos. DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director: Division of Operating Reactors.

Dated at Bethesda, Maryland this 26th day of March 1980.

For The Nuclear Regulatory Commission.

Thomas A. Ippolito, Chief,

Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 80-10302 Filed 4-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District, which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to reflect plant operating limits for the fuel loading to be used during Cycle 4.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated October 3, 1979, as supplemented February 19, 1980 and February 27, 1980, (2) Amendment No. 29 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 31st day of March, 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80-10305 Filed 4-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and The Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to allow for a delay in the testing of the reactor vessel internals vent valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 10, 1980, (2) Amendment No. 23 to License No. NPF-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of March 1980.

For the Nuclear Regulatory Commission

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80-10304 Filed 4-4-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

April 2, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

New Forms

National Oceanographic and Atmospheric Administration
Survey of Private Marine Aquaculture 88
Other (See SF–83)
Private Marine Aquaculture Enterprises, 300 responses; 99 hours
William T. Adams, 395–4814

Revisions

Maritime Administration
Subsidy Voucher—Operating-Differential Subsidy—Bulk Cargo Vessels
SF 1034 and Supporting Schedules
Monthly
Shipping Companies Under Bulk Carrier Contracts, 332 responses; 562 hours
William T. Adams, 395–4814

Reinstatements

National Oceanic and Atmospheric Administration
Report of Observations/Samples Collected by Oceanographic Programs
24–23
On Occasion
Universities/Laboratories/Private Industry, 1,050 responses; 262 hours
William T. Adams, 395–4814

DEPARTMENT OF ENERGY

Agency Clearance Offices—John Gross—633–9770

New Forms

Attitudes and Experiences Relating to Electrical Power Outages
ERA–435
Single time
Indiv. in 3 Selected Regions, 1,500 responses; 500 hours
Jefferson B. Hill, 395–5867

Revisions

Energy Company Financial Reporting System EIA–28
Annually
Major energy companies, 27 responses; 122,904 hours
Jefferson B. Hill, 395–5867
Entitlements Program Transaction Report ERA–116
Monthly
Petroleum refiners and eligible firms, 2,520 responses; 12,600 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strnad—245–6511

New Forms

Office of the Secretary
AFDC and food stamp client surveys OS–5–80
Single time
AFDC and food stamp clients in Springfield, MA., 1,050 responses; 788 hours
Barbara F. Young, 395–6132
Social Security Administration
Application for Federal Assistance (Nonconstruction programs) Schedule of Estimated Cost for Assistant Services Training and Administration
SSA–96 & 97
On occasion
St./Loc Govt nonprof and edu. inst apply. for Fed. assist., 1,000 responses; 14,000 hours
Barbara F. Young, 395–6132

Reinstatements

Social Security Administration Work Activity Report (for Disability Beneficiary)
SSA–820–F4 & 821–F4
On occasion
SSA disability claimants and beneficiaries, 150,000 responses; 75,000 hours
Barbara F. Young, 395–6132

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

Reinstatements

Employment Standards Administration
Coal Mine Employment Statements
CM–913, CM–918, & CM–1093
On occasion
Coal miners and survivors, 55,000 responses; 17,500 hours
Arnold Strasser, 395–5080

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Clearance Officer—Linwood A. Rhodes—632–0084

New Forms

Contractor's Certificate for Project Commodities—Invoice
On occasion
Commodity suppliers, 8,000 responses; 2,000 hours
Phillip T. Balazs, 395–4814

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Revisions

Claim For Unemployment Benefits UI–3
On occasion
Claimant for unemployment benefits, 575,000 responses; 47,917 hours
Barbara F. Young, 395–6132

Extensions

Notice of Payment of Separation Allowance UI–13
On occasion
Railroad employers, 1,500 responses; 375 hours
Barbara F. Young, 395–6132
Claim for Sickness Benefits SI–3
On occasion
Claimant for sickness benefits, 460,000 responses; 15,333 hours
Barbara F. Young, 395–6132
Notice of Death and Statement of Compensation AA–12
On occasion
Railroad employers, 5,000 responses; 833 hours
Barbara F. Young, 395–6132

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Anderson—653–6890

New Forms

Government Procurement Opportunities for small Business SBA 1167
Single time
Small firms interested in getting Government contracts, 20,000 responses; 10,000 hours
John M. Allen, 395–3785

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—854–2596

Revisions

Salary Survey TVA 5322
Annually
Description not furnished by agency, 45 responses; 45 hours
Charles A. Ellett, 395–5080

C. Louis Kincannon,

Acting Deputy Assistant Director For Reports Management.

[FR Doc. 80–10439 Filed 4–4–80; 8:45 am]

BILLING CODE 3110–01–M

Senior Executive Service Performance Review Board; Membership

March 31, 1980.

Pursuant to the Civil Service Reform Act, 4314(c)(4) requires the appointment of Performance Review Board members be published in the **Federal Register.**

The following persons will serve on the Performance Review Board, which oversees the utilization and evaluation of the Office of Management and Budget's Senior Executive Service:

Performance Review Board

James M. Frey, Chair (term expires July 1981).

Harrison Wellford.

Donald E. Crabill (term expires July 1980.)

Nathaniel Scurry (term expires July 1981).

John Merck (term expires July 1980).

The Assistant to the Director for Administration will serve as Executive Secretary for the Board.

This notice is a revision to the notice published in 44 FR 42354, dated July 19, 1979.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80–10361 Filed 4–4–80; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Articles That May Be Considered for Modification or Continuance of U.S. Duties or Additional Duties

1. In conformance with section 131 of the Trade Act of 1974 (19 U.S.C. 2151) I hereby give notice of articles that may be considered for modification or continuance of United States duties or for additional duties. These articles are set forth below.

2. I have requested the U.S. International Trade Commission to advise me, in accordance with section 131 of the Trade Act of 1974, of the probable economic effects on producers of like or directly competitive products, and on consumers, of increases in the current duty rate of the listed items.

3. Articles which will be considered for modification or continuance of United States duties or additional duties in international trade negotiations, in particular with the United States and Mexico, to the extent permitted by sections 124 and section 109 of the Trade Act of 1974:

Tariff Schedules of U.S. Annotated

Item No.	Description
135.92	Cucumbers—If entered during the period from March 1 to June 30, inclusive, or the period from September 1 to November 30, inclusive, in any year.
135.94	Cucumbers—If entered during the period from July 1 to August 31, inclusive, in any year.
136.22	Eggplant—Other.

Reubin O'D. Askew,

United States Trade Representative.

[FR Doc. 80–10292 Filed 4–4–80; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16709; SR–Amex–80–5]

American Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

March 28, 1980.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act"), notice is hereby given that on March 14, 1980, the American Stock Exchange, Inc. ("Amex") filed with the Commission copies of a proposed rule change which would amend Article IV, Section 1(a)(1) of the Amex Constitution to increase the number of regular memberships from 650 to 675. Under the Amex's Membership Offering Plan ("Plan"), the 25 additional memberships would be offered for sale to members and member organizations for a period of 30 days on a first-come first-served basis. The price of the memberships would be an amount equal to the average price of the last four regular membership transfers (other than private sales), immediately preceding the date of commission approval of the proposed rule change.

Under the Plan a member or member organization would be able to apply for more than one membership. All rights and obligations currently applicable to existing regular members would be extended to the additional memberships.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–Amex–80–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Sections 6(b)(2) and 6(b)(5), in that it would increase access by eligible persons to the exchange, and would further the objective of a free and open market and a national market system.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that additional memberships will aid in the maintenance of fair and orderly markets by enhancing the ability of the Amex to accommodate the increased volume the exchange has been experiencing recently and may experience in the future.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10320 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11109; 811-2427]

Golden Gate Income Securities, Inc.; Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That Applicant Has Ceased To Be an Investment Company

March 28, 1980.

In the matter of Golden Gate Income Securities, Inc., 44 Montgomery Street, 21st Floor, San Francisco, California 94104.

Notice is hereby given that Golden Gate Income Securities, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management investment company, filed an application on February 11, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant had ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant was incorporated under the laws of the State of Maryland on October 17, 1973. It registered under the Act on October 19, 1973, and on the same date it filed a registration statement under the Securities Act of 1933 ("1933 Act") covering 2,400,000 shares of Common Stock. Such registration statement under the 1933 Act has not become effective nor has any public offering commenced. Thus, Applicant has no assets, outstanding securities or shareholders.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than April 22, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon.

Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10325 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21497; 70-6402]

Louisiana Power & Light Co.; Proposal by Utility To Obtain a 60-Year Franchise To Operate a Municipal Electric System and an Option To Acquire That System

March 27, 1980.

In the matter of Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174.

Notice is hereby given that Louisiana Power & Light Company ("LP&L"), an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), and 10 of the Act as applicable to the proposed transaction. All interetsted persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

LP&L is engaged in the business of generating, transmitting, distributing and selling electric power and energy. It operates in 46 of the 64 parishes in the State of Louisiana, including the Parish of Jackson.

The Town of Jonesboro ("Town") is a municipal corporation of the State of Louisiana, located in the Parish of Jackson, in the north central part of the State. Its population is approximately 5,500 people. The Town owns, operates and maintains a system for the generation, distribution and sale of electric power and energy to customers within and outside its corporate limits ("Electric System"). As of October 31, 1979 the Town had 2,857 electric customers, of which 2,382 were classified as residential (1,590 inside the corporate limits and 792 outside the corporate limits), 433 were classified as commercial (368 inside the corporate limits and 65 outside the corporate limits), and 42 were classified as government and municipal customers (all inside the corporate limits). The Electric System immediately adjoins and is connected to the LP&L system and facilities. LP&L proposes to enter into an agreement with the Town whereby LP&L will be granted a sixty-year franchise to operate the Electric System and given an option to acquire the Electric System.

The Electric System has a generating capability of 17.440 megawatts and served a peak load for 1979 of 10.6 megawatts. It is estimated that such load will grow at a rate of 6 percent per year over the next five years, amounting to 14.4 megawatts in 1984. During that period LP&L's service margin is expected to be at least 1,035 megawatts. The existing connection between the Electric System and the LP&L System has a capability of 28 megawatts. LP&L states that it intends to shift the Town's load to its own transmission system as the fuel supply for and the capability and reliability of the Town's generating facilities require or make desirable.

Modifications costing approximately $50,000 will be made to LP&L's facilities and to the Town's distribution system in preparation for such load shift. At June 30, 1979 the undepreciated original cost of the Electric System was $6,472,791. LP&L estimates that the depreciation value of the Electric System at that date was $4,363,000. For the year ended June 30, 1979, the Electric System had operating revenues of $1,949,840 and operating expenses, exclusive of depreciation expense and interest of debt, of $1,658,811.

The Town presently has outstanding bonds in the aggregate principal amount of $4,239,000 which are payable from the income and revenues of its waterworks, sewerage and electric systems and plants ("Bonds"), consisting of the

principal amounts presently outstanding of eight different series of such bonds issued during the years 1955 through 1977, maturing on September 1st of the years 1980 through 2002, and bearing interest at rates from 3½% to 6¾% per annum. Further, $670,000 principal amount of a series of such bond bearing interest rates from 6% to 6¾% per annum bear additional interest at the rate of ¾% per annum to March 1, 1980; and $495,000 principal amount of series of such bonds bearing interest at rates from 5¾% to 6¼%per annum bear additional interest at the rate of ¾% per annum to September 1, 1982 or to the maturity date thereof, whichever is earlier. The average rate of the Bonds is 5.62% per annum.

LP&L states that, for financial and other reasons, including difficulty in obtaining assured quantities of fuel, and reasonably or acceptably priced fuel, the Town has been encountering increasing difficulty in the operation and maintenance of the Electric System on a profitable basis and has concluded that these problems would continue to become worse in the future.

It is further stated that, after negotiating with the Town, LP&L extended an offer for the operation and possible ultimate ownership of the Electric System. The Town, at LP&L's request, called a special election on whether LP&L's offer should be accepted. On December 8, 1979, the electorate voted to accept the offer.

Under the terms of the Operating Agreement between the Town and LP&L, the utility will be obligated, at its own expense, to operate, maintain and make necessary additions and improvements to the entirety of the Electric System exclusive of the generating facilities ("Distribution System"), providing for the entirety of the electric power supply requirements of the Distribution System and its customers, and LP&L may, but will not be obligated to, operate and maintain the Electric System's generating facilities ("Generating Facilities") or any part thereof; to read the meters and bill the customers of the Distribution System; and to maintain in effect certain insurance coverages with respect to the Electric System. Additions, improvements, replacements and extensions so made shall be and shall remain the property of LP&L, but provision is made for the acquisition thereof by the Town, exclusive of extensions of the Distribution System located outside of its corporate limits, in the event the Operating Agreement is terminated or nullified without LP&L acquiring ownership of the Electric System. The rates to be charged by LP&L to the various classes or categories of customers of the Distribution System shall be the same rates which LP&L charges its customers of the same classes or categories elsewhere in Louisiana.

LP&L will retain revenues collected for the electric service rendered by it under the Operating Agreement. However, in addition to meeting the expenses mentioned above, the Company is obligated to make certain payments as hereinafter set forth: (a) LP&L will meet a schedule of payments to be made to a designated fiscal agent of amounts necessary to pay the principal of and interest on the Bonds as such principal and interest become due. The aggregate annual amounts of such payments vary from a high of $349,277.25 in 1980 to a low of $5,265.00 in 2002, averaging out to $314,659 per year over the period 1980 through 2002, (b) As long as the Operating Agreement or the franchise to be granted to LP&L remains in effect, LP&L is also obligated to pay the Town 2% of the revenues from residential and commercial customers within the corporate limits of the Town, but if the aggregate of such 2% payments and LP&L's ad valorem taxes in the Town for any calendar year total less than $95,000, LP&L will pay the Town the difference within 30 days after the end of such calendar year, and if residential and commercial revenues within the corporate limits exceed $1,600,000 in any calendar year, the $95,000 will be increased for such calendar year by an amount equal to 1% of such excess. It is also provided that if the cost of LP&L's electric service to municipal facilities exceeds the aggregate of the annual payments set forth in this item (b), LP&L will add to such payments an amount equal to that part of the difference resulting from increases in electric rates (including fuel adjustment charges). LP&L will not assume or be liable for any contracts, accounts payable or financial obligations or liabilities of the Town. LP&L will have the right, under the Operating Agreement to pay and refund any or all of the bonds, and to pre-refund any of the Bonds which may not then be callable.

The Operating Agreement will give LP&L the further right, at any time that LP&L considers it economically feasible to do so, to require the Town to issue and sell refunding bonds in an amount sufficient to pay and refund and/or pre-refund all of the Bonds then outstanding, either (a) on the basis of the replacement of the Operating Agreement with a lease-purchase agreement whereunder LP&L would become the lessee of the Electric System, the lease payments made by LP&L would be sufficient to assure the payment of the refunding bonds, and LP&L would have the right to acquire the Electric System on the same basis as provided for in the Operating Agreement, or (b) on the basis of the replacement of the Operating Agreement with a new operating agreement reflecting such changes as necessarily result from such refunding but otherwise having substantially the same terms, conditions and provisions as the Operating Agreement. The Town may require LP&L to participate in such a refunding provided that the last maturing refunding bonds mature no later than the last maturity date of any of the Bonds and that the annual debt service on the refunding bonds is no greater for any year than the amount of the Sinking Fund Deposit for such year.

The Operating Agreement will further provide that at such time as no Bonds or refunding bonds are outstanding (pre-refunded Bonds and pre-refunded refunding bonds being considered as no longer outstanding), LP&L will have the right and option, for no further consideration, to acquire from the Town the entirety of the Electric System.

In the event that the Operating Agreement is terminated or nullified without LP&L acquiring the ownership of the Electric System and LP&L's franchise is still effective, the offer also provides that LP&L will, on demand, release and relinquish such franchise.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $11,000, including legal fees of $9,000. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 21, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become

effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10331 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21502; 70-6429]

Middle South Utilities, Inc.; Proposal To Issue and Sell Common Stock at Competitive Bidding

March 28, 1980.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed a declaration and an amendment thereto with this Commission purusant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to 7,000,000 authorized but unissued shares of its common stock, $5 par value, to underwriters or investment bankers who will promptly make a public offering thereof. If market conditions at the time of the offering of the securities are unfavorable, Middle South may request an exception from the competitive bidding requirements of rule 50, so that the common stock may be offered pursuant to a negotiated underwriting.

The net proceeds to be derived from the sale of the common stock (presently estimated to be approximately $91,000,000) will be applied toward the reduction of Middle South's then outstanding bank loans, pursuant to the credit agreement between Middle South and various commercial banks, dated as of June 29, 1979. The amount then to be outstanding is estimated to be $224,000,000. Proceeds derived from bank borrowings are used to make investments in certain of Middle South's subsidiary companies which apply such funds to construction, acquisition of property or retirement of short-term indebtedness.

The consolidated capitalization of Middle South and its subsidiaries as of December 31, 1979, was as follows:

Common Stock	$452,165,000
Paid-in surplus	630,450,000
Retained earnings	581,445,000
Subsidiaries preferred stock	524,474,000
Subsidiaries long-term debt	3,017,816,000
Total	$5,206,350,000

These amounts include term bank notes and first mortgage bonds issued by Middle South Energy, Inc. ("MSEI"), a wholly-owned subsidiary of Middle South whose sole function, at present, is to construct Grand Gulf Electric Generating Units No. 1 and No. 2 near Port Gibson, Mississippi. As of December 31, 1979 such bank notes due December 31, 1985 amounted to $547 million under an $808 million revolving loan agreement. MSEI then also had outstanding $400 million principal amount of its first series of first mortgage bonds due 1989. Such bonds are held by a group of insurance companies. In January, 1980 MSEI entered into an agreement with a group of insurance companies under which it will issue and sell on or prior to July 1, 1980 an additional $98.5 million principal amount of first mortgage bonds due 2000. Its common equity, supplied by Middle South, was about $385 million. Under a Capital Funds Agreement, Middle South is obligated to supply MSEI's capital requirements, except to the extent it is obtained by MSEI from other sources.

MSEI has covenanted with its bondholders and with the holders of its bank notes that Grand Gulf Unit No. 1 will be placed in commercial operation no later than December 31, 1982, and, with the bondholders, that Grand Gulf Unit No. 2 will be placed in commercial operation no later than December 31, 1986. If either of these convenants is not fulfilled or if MSEI defaults with respect to either the bonds or the bank borrowings, MSEI's outstanding obligations will become due and payable by MSEI and by Middle South under its Capital Funds Agreement, unless extensions of time can be arranged. MSEI has assigned, as security, to the banks and to the trustee for the bondholders its rights under its Availability Agreement with Middle South's five electric utility subsidiaries. It provides that no later than December 31, 1982, the operating companies will begin paying MSEI such amounts as will be at least equal to MSEI's operating expenses or an equivalent amount, if Unit No. 1 is not in operation, including MSEI's interest charges and depreciation expense.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 21, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10321 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16707; SR-MSRB-79-6]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

March 28, 1980.

In the matter of Municipal Securities Rulemaking Board, Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036.

On June 6, 1979, the Muncipal Securities Rulemaking Board (the "MSRB") filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to modify certain provisions of its customer confirmation rule, MSRB rule G–15.[1] The proposed rule change would require a municipal securities broker or municipal securities dealer, when confirming transactions involving callable securities, to include on the confirmation a statement indicating that the yield shown may be affected by the exercise of a call provision, and that information concerning call provisions will be provided upon request. In addition, the proposed rule change would provide that a confirmation of a transaction effected on the basis dollar price, including a transaction in "dollar bonds," would be required to include not only the dollar price at which the transaction was effected, but also the lowest of the resulting yield to premium call, par option, or maturity. Currently, transactions effected at a dollar price are exempted from the requirements in MSRB rule G–15 to show yield information on confirmations.

The text of the proposed rule change is as follows:

Rule G–15. Customer Confirmations

(a)(i) through (vii) No change.

(viii) yield and dollar price, as follows:

(A) for transactions effected on a yield basis, the yield at which transaction was effected and the resulting dollar price shall be shown. Such dollar price shall be calculated to the lowest of price to premium call, price to par option, or price to maturity. In cases in which the dollar price is calculated to premium call or par option, this must be stated.

(B) for transactions effected on the basis of dollar price, the dollar price at which transaction was effected, and the lowest of the resulting yield to premium call, yield to par option, or yield to maturity shall be shown.

(C) for transactions at par, the dollar price shall be shown;

(ix) through (xiii) No change.

(b) No change.

(c) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) through (iii) No change.

(iv) If the securities are callable, a statement that the yield set forth pursuant to subparagraph (viii) of paragraph (a) may be affected by the exercise of a call provision, and that information relating to call provisions is available upon request. A statement to the following effect will be deemed to satisfy this requirement:

Call features may exist which could affect yield; complete information will be provided upon request;

(v) denominations of notes and, it other than the following, denominations of bonds;

(A) for bearer bonds, denominations of $1,000 or $5,000 par value, and

(B) for registered bonds, denominations which are multiples of $1,000 par value, up to $100,000 par value;

(vi) any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B), if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default," and

(vii) such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) through (h) No change.

The Commission received four letters of comment on the proposed rule change. All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and were made available to the public at the Commission's public reference room. The comments received focused on the proposed amendment which would require yield information on confirmations of transactions effected at a dollar price, which was opposed as inappropriate or meaningless. In addition, commenters indicated that a requirement to include yield information on confirmations of such transactions would be burdensome or expensive.[2]

It appears, nevertheless, that increased yield information on customer confirmations of transactions effected at a dollar price would be beneficial. For example, the comment letters received by the MSRB on its exposure draft of the proposed amendment to rule G–15, and those received by the Commission on the proposed rule change, indicated that the current exemption from the rule's yield disclosure requirements for transactions effected at a dollar price has been read as not requiring yield information for purchases of securities from customers, since such transactions may be viewed as effected on the basis of dollar price. Under the proposed amendment, a confirmation would be required to show yield information as well as the dollar price paid for purchases of securities. It appears that providing such yield information to customers will permit them, among othe things, to compare the merits of securities being sold with those which they contemplate purchasing.

The MSRB requested a delayed effective date for the proposed amendments in order to reduce any costs associated with the proposed yield disclosure requirement. Accordingly, the proposed rule change will become effective six months from the date of Commission approval. This will allow municipal securities professionals sufficient time to reporgram computers or redesign confirmation forms, as necessary. In addition, the MSRB has stated its belief that calculation of approximate yield to the nearest five-hundredths of a percentage point would sufficient to satisfy the rule's requirement to show resulting yield.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the avove-mentioned proposed rule change be, and it hereby is, approved, effective with espect to transactions occurring on or after September 24, 1980.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–10319 Filed 4–4–80; 8:45 am]

BILLING CODE: 8010–01–M

[Release No. 34–16708; File No. SR–NYSE–80–10]

New York Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on March 18, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendments to NYSE Rules 13 and 123A.30 would enable specialists to convert percentage orders into regular limited price orders to participate in trades on "zero plus" (in

[1] Notice of that filing was published in Securities Exchange Act Release No. 15938 (June 19, 1979) (44 FR 39673 (1979)).

[2] Currently, many computer-generated confirmations do not calculate or print yield information from dollar prices, while computer programs to calculate dollar prices from specified yields are standard.

the case of buy percentage orders) and "zero minus" ticks (in the case of sell percentage orders) but would prohibit him, except in the case of ITS stocks, from taking on behalf of the buy percentage orders more than 50% of all the stock offered, or supplying, on behalf of the sell percentage orders, more than 50% of all the stock bid for.

The Exchange's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is (i) to enhance the ability of Exchange specialists to handle percentage orders efficiently and diligently and (ii) to increase the potential for such orders—which are usually of block size—to be absorbed by the market. The proposed rule change is also expected to result in a number of other benefits to Exchange markets, as a whole, and to the various participants therein.

Allowing converted percentage orders to participate in "zero" tick transactions is entirely consistent with percentage order philosophy since the investor who enters a percentage order is trying to purchase a block of stock without driving the price of the stock up, or sell a block of stock without depressing its price. Thus, the investor wants to avoid creating new price levels. Instead, he wants to trade along at price levels created in previous transactions—and this is exactly the case in a "zero" tick trade.

The purpose of the 50% restriction in non-ITS stocks is to create a buffer against the erosion of a price level in the case where the specialist executes a converted percentage order (or a portion thereof) on a "zero" tick transaction by taking, on behalf of a buy percentage order, stock that is offered, or supplying on behalf of a sell percentage order stock that is bid for. However, the Exchange believes it would be inappropriate to require the specialist to maintain such a buffer in ITS stocks because of the intense intermarket competition in such stocks.

NYSE's Statement of Basis Under the Act for Proposed Rule Change

The proposed rule change would further the objectives of the following sections of the Act: Section 11(b) which prevents a specialist from effecting on the Exchange, as broker, any transaction except upon a market or limited price order;

Section 11A(a)(1)(C)(ii) of the Act, which provides that "[it] is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . fair competition among brokers and dealers . . .;"

Section 6(b)(5) of the Act which requires that Exchange rules be designed to foster cooperation and coordination between persons engaged in facilitating transactions in securities; And Section 11A(a)(1)(C)(v) of the Act which seeks to assure an opportunity for investors' orders to be executed without the participation of a dealer.

Comments Received From Members, Participants, or Others on Proposed Rule Changes

The Exchange has not solicited comments regarding the proposed rule change.

Burden on Competition

The NYSE states that the proposed rule changes will not impose any burden on competition. The proposed rule change is designed partially to enable Exchange specialists to compete more effectively for block-size orders.

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

March 28, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10323 Filed 4-4-80; 8:45 a.m.]

BILLING CODE 8010-01-M

[Release No. 34-16706; File No. SR-PSE-80-1]

Pacific Stock Exchange, Inc.; Self-Regulatory Organizations, Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on March 12, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated proposes to adopt a new Rule XII regarding Exchange arbitrations replacing existing Rule XII. The new rule incorporates the Uniform Code of Arbitration for resolving disputes between investors and member firms.

The basis and purpose of the foregoing proposed rule change is as follows:

New Rule XII is being adopted to conform PSE Arbitration Rules to the proposed Uniform Arbitration Code developed by the Securities Industry Conference on Arbitration ("SICA"). The PSE is one of ten self-regulatory organizations which are members of the SICA. The purpose of the proposed rule change is to provide investors with a simple and inexpensive procedure for resolution of controversies with broker-dealers.

The proposed rule is consistent with Sec. 6(b) of the Act in general, and furthers the objectives of Sec. 6(b)(5) of the Act, in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. It does so by providing improved uniform procedures for the arbitration of disputes involving members and member organizations of the Exchange.

Comments have neither been solicited nor received from members, participants or others on the proposed rule change.

The proposed rule change imposes no burden on competition.

Within 35 days of the date of publication of this notice in the **Federal**

Register, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

March 28, 1980.

[FR Doc. 80-10324 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21499; 70-6409]

Southern Ohio Coal Co. and Ohio Power Co.; Proposed Financing for Coal Mining Subsidiary

March 28, 1980.

In the matter of Southern Ohio Coal Company, Post Office Box K, Moundsville, West Virginia 26401 and Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44702.

Notice is hereby given that Ohio Power Company ("Ohio Power"), an electric utility subsidiary of American Electric Company, Inc. ("AEP"), a registered holding company, and Southern Ohio Coal Company ("SOCO"), a coal mining subsidiary of Ohio Power, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9, 10 and 12 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

SOCO is engaged in the development and mining of coal reserves for use at Ohio Power's Mitchell Plant located in Captina, West Virginia, and at its General James M. Gavin Plant, located in Cheshire, Ohio. The transaction proposed herein involves the installation by SOCO of additional coal preparation facilities at its Meigs Mine Complex located in Gallia and Meigs Counties in southeastern Ohio. SOCO proposes to 1) install at Meigs Mine No. 1 a heavy-medium cyclone and a froth flotation system to augment the heavy-medium bath preparation; 2) install at Racoon Mine No. 3 a froth-flotation system; and 3) modify the Baum jig plant at Racoon Mine No. 3. These additions and modifications are estimated to cost approximately $40,600,000.

Ohio Power and SOCO believe that the cost of the proposed project is justifiable on the basis of the anticipated savings in the cost of coal delivered to Ohio Power. In the case of Meigs Mine No. 1, the preparation plant additions will lead to improved quality of the coal and to a relative reduction in the cost per million British thermal units ("MBtu") of delivered coal. It is estimated that such cost in present-day dollars will be reduced from 181.75¢ per MBtu to 175.61¢ per MBtu. The Racoon Mine No. 3 addition will cause an increase in Btu recovery and an estimated decline in relative delivered cost per MBtu in present-day dollars from 170.98¢ to 157.77¢. The annual savings in delivered fuel costs alone upon completion of the proposed projects are estimated to be approximately $16,674,000 at capacity or planned output. Additional savings will accrue annually to Ohio Power through improved availability and lower maintenance expense of the Gavin Plant boilers. Although these savings are difficult to quantify precisely, they are conservatively estimated at $10 million annually. It is proposed that these projects will be financed through a combination of long-term loans and cash capital contributions by Ohio Power to SOCO of approximately $40,600,000. It is expected that Ohio Power will make its investment in SOCO in two increments, one to be made in 1980 and the second to be made sometime in 1981. In return for the loans, SOCO will issue to Ohio Power long-term promissory notes. Each of the notes will mature and become payable on December 31, 2009.

The price at which SOCO's coal will be sold to AEP system companies will not exceed the cost thereof to the seller. For this purpose, cost will include reasonable compensation for necessary capital.

The investments made by Ohio Power in SOCO will be assumed to be made in the same proportion as the debt-equity ratio of Ohio Power at the end of the year prior to the investment. As of December 31, 1979, the debt-equity ratios of Ohio Power were 56.3% long-term debt, 11.9% preferred stock, and 31.8% common equity. The interest rate on long-term debt will be equal to the effective interest cost of Ohio Power's last issue of First Mortgage Bonds prior to the investment, the preferred dividend rate will be equal to the dividend rate of Ohio Power's last issue of preferred stock prior to the investment, and the return on common equity will not exceed the rate of return on common equity specified by the Federal Energy Regulatory Commission (FERC) in the most recent wholesale rate proceeding involving Ohio Power. In the absence of such a determination at this time, it is proposed that the cost of common equity capital of SOCO be set at 13% until such time as FERC should take action specifying a rate of return in a wholesale rate proceeding involving Ohio Power in which case the rate then established by FERC shall then become applicable on a prospective basis to the then total common equity investment of Ohio Power in SOCO. The allowed rate of return on common equity shall not be applied to any of SOCO's retained earnings. No return allowance will be applied to such retained earnings.

It is stated that the issuance of such securities is excepted from the competitive bidding requirements of Rule 50 by reason of paragraph (a)(3) thereof.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $2,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 21, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission,

Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rules 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10322 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11110; 812-4641]

American Variable Annuity Life Assurance Co., et al.; Application Approving Certain Offers of Exchange for Exemption From the Provisions

March 31, 1980.

Notice Is Hereby Given That American Variable Annuity Life Assurance Company (the "Company") and American Variable Annuity Life Assurance Company Separate Accounts D, E and F (the "Separate Accounts"), 440 Lincoln Street, Worcester, MA 01605, as issuers of the Company's individual, non-qualified, variable annuity contracts funded by the Separate Accounts (the "Contracts") filed an application on March 25, 1980 for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") exempting the Company and the Separate Accounts (collectively referred to as "Applicants") from Sections 26(a) and 27(c)(2) of the Act and pursuant to Sections 11(a) and 11(c) of the Act approving certain offers of exchange. 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.

The Company is a stock life insurance company organized under the provisions of the Delaware Insurance Code in July 1974. It is the successor in interest by virtue of merger to the stock life insurance company of the same name which was incorporated in the State of Arkansas in January 1967. The Company is a wholly-owned subsidiary of State Mutual Life Assurance Company of America ("State Mutual"), a mutual life insurance company incorporated under the laws of the Commonwealth of Massachusetts in 1844. The Company's principal operational office is in Worcester, Massachusetts. As of December 31, 1979, the Company had total assets in excess of $87 million and capital and surplus in excess of $4 million.

The Separate Accounts are separate accounts of the Company established by vote of the Board of Directors of the Company, pursuant to Section 2933 of the Delaware Insurance Code, to fund certain of the Company's variable annuity contracts. The Separate Accounts are registered collectively as a unit investment trust under the Act. The assets of Separate Account D are invested entirely in shares of Colonial Option Income Fund, Inc. (COIF); the assets of Separate Account E are invested entirely in shares of Colonial Income Fund, Inc. (CIF). Subject to the receipt of the requested order and to the effectiveness of an amendment to a registration statement filed on behalf of the Company and the Separate Accounts, the assets of Separate Account F will be invested entirely in shares of Colonial High Yield Securities, Inc. (CHYS).

The Company issues a series of individual, single payment, deferred, variable annuity contracts currently funded through Separate Accounts D and E. Net purchase payments, in a minimum amount of $10,000, may be allocated to either or both Separate Accounts, subject to a minimum of $1,000 allocated to each Separate Account to which net purchase payments are allocated. Purchase payments under the Contracts may be allocated to accumulate in either or both Separate Accounts.

From the single purchase payment the Company deducts a charge for sales and administrative expenses and for a minimum pre-retirement death benefit ranging from a minimum of 2.50% to a maximum of 7.75%. A charge is also made for applicable state premium taxes, if any.

COIF, CIF and CHYS (hereinafter known as the "Funds") are registered with the Commission as open-end, diversified, management investment companies under the Act. The Funds are managed and distributed by Colonial Management Associates, Inc. ("Colonial") which is indirectly a wholly-owned subsidiary of State Mutual. Colonial is registered with the SEC as an investment adviser under the Investment Adviser's Act of 1940 and as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the NASD. Colonial also serves as principal underwriter for the Contracts.

The minimum initial investment in shares of CIF, COIF and CHYS is $250 (except for a $25 minimum in connection with a Colonial Fundamatic Program or a Colonial Retirement Plan). Sales charges on purchases of shares of CIF, COIF and CHYS range from a minimum of 1.25% to a maximum of 8.50% of the offering price.

On December 28, 1978, the Commission issued an order ("1978 Order"), to the Company and Separate Accounts D and E pursuant to Section 11 of the Act approving certain offers of exchange and providing an exemption from the provisions of Sections 26(a) and 27(c)(2) of the Act, pursuant to Section 6(c) of the Act. The 1978 Order approved the transfer of accumulated value under the Contracts between Separate Accounts D and E prior to the annuity commencement date, subject to certain nondiscriminatory restrictions on transfer imposed by the Company, without imposition of any charge for sales and administrative expense.

The 1978 Order also provided an exemption from Sections 26(a) and 27(c)(2) of the Act to permit State Mutual to serve as custodian of the assets of the Separate Accounts.

In addition to the 1978 Order, on April 16, 1979, the Commission issued an order ("1979 Order") to the Company and Separate Accounts D and E pursuant to Section 11 of the Act approving an offer of exchange to shareholders of CIF and COIF to exchange shares of CIF and COIF for a Contract for a $50 fee for contract issue and conversion expense but with no deduction for sales and administrative expenses or the pre-retirement minimum death benefit.

The Company proposes to amend the Contracts to permit purchase payments to be allocated to newly organized Separate Account F. The assets of Separate Account F will be invested as described above.

The Company proposes to operate Separate Account F in an identical manner with Separate Accounts D and E, and has requested exemptions similar to those issued to Separate Accounts D and E in the 1978 and 1979 Orders.

Section 11

Transfers Among the Separate Accounts

The Contracts permit, subject to consent of the Company, a Contract owner to transfer, prior to the annuity commencement date, all or a portion of the accumulated value in one Separate Account to another Separate Account without imposition of any charge for sales and administrative expense, subject to certain nondiscriminatory restrictions on the amount and timing of such transfer imposed by the Company.

Applicants state that the purpose of the transfer provisions of the Contracts is to provide the Contract owners the flexibility to redirect their investments as they deem appropriate from time to time.

Section 11(a) of the Act makes it unlawful for any registered open-end investment company to make an offer to the holder of a security of such company to exchange that security for a security in the same or any other investment company on any basis other than the net asset value of such securities, unless the terms of the offer have been first submitted to and approved by the Commission. Section 11(c) of the Act provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants state that the transfer provision of the Company's Contracts would permit a transfer of accumulated values among Separate Accounts, D, E and F, all three Separate Accounts being registered collectively as a unit investment trust. Thus, the transfer would involve an "exchange" from one "division" of the unit investment trust to another "division" of the same unit investment trust. Applicants state that there would be no change in, or exchange of, the variable annuity Contract for which the Separate Accounts serve as funding vehicles. However, in the event Section 11(a) may be considered applicable by virtue of Section 11(c), Applicants are seeking, to the extent necessary, approval of the Commission pursuant to Section 11 of the Act so that the transfer privilege described above may include transfers to and from Separate Account F in addition to the transfers between Separate Accounts D and E previously exempted by the 1978 Order. All such transfers would be subject to the right of the Company to change the non-discriminatory restrictions on such transfers described above by reducing or increasing the minimums and/or time period between transfers.

Applicants argue that the transfer privilege proposed by Applicants can in no way be deemed to be inequitable to any such Contract owners. Applicants state that the transfer provision is undertaken on an entirely no-load basis. The transfers will be effected at the current unit values of the Separate Accounts as described above which is equivalent to an exchange at net asset value per share. Neither the Company nor the Separate Accounts will receive any charge or load in connection with the exercise of the transfer provision. Applicants state that current prospectuses of the Separate Accounts and the Fund requested by the investor will be provided to any such Contract owner, as required by law, in connection with the exercise of this transfer provision. The terms of the Contract will remain the same. Applicants assert that extending the transfer privilege to include Separate Account F will provide Contract owners with an opportunity to transfer accumulated values to a Separate Account which operates under investment objectives more closely aligned to such Contract owner's current financial objectives and will provide such Contract owner greater flexibility in planning for his or her financial future. Applicants further assert that approving such exchange privilege is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Exchange Offer to Fund Shareholders

Pursuant to the 1979 Order, the Company permits shareholders of CIF and COIF to exchange shares of such Funds for a Contract. Applicants propose to extend this privilege to shareholders of CHYS. Applicants state that in such cases purchase payments for the Contract will be amounts which result from the redemption of shares of a Fund by a shareholder who has elected to purchase a Contract. The amount of the purchase payment will be the net asset value of the Fund shares redeemed for the purpose of purchasing a Contract at the time the election to purchase is made. The minimum single purchase payment in connection with an exchange is $5,000. At the time an initial purchase payment for a Contract is received by the Company in connection with an exchange for Fund shares, a $50 fee will be deducted to reimburse the Company for Contract issue and conversion expense. Other than such fee, no deduction for sales and administrative expense or the pre-retirement minimum death benefit will be made from the purchase payment. A charge will be made for state premium taxes, if applicable.

Applicants state that the proposed exchange would occur on the application of the individual, and any issued Fund share certificates would be tendered to the Fund transfer agent for this purpose. The exchange would be on the basis of the net asset values of the securities to be exchanged, except for the $50 exchange fee and state premium taxes, if any, deducted at the time of exchange. Applicants assert that the exchange fee is deducted as reimbursement for the cost of establishing the variable annuity account, for the cost of issuing the Contract, and to cover expected expenses which result from the exchange of Fund shares for the Contracts. The amounts received from the exchange fee are not used to pay sales commissions but are devoted to costs related to initial administrative and conversion expenses.

Sections 26(a) and 27(c)(2)

Sections 26(a) and 27(c)(2) of the Act provide, in substance, that a registered unit investment trust or issuer of a periodic payment plan certificate and any depositor and underwriter for such investment company are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a qualified bank as trustee and are held under an indenture or agreement containing the following provisions: (1) That the trustee or custodian be a bank of a designated size; (2) that the assets be held in trust and only certain charges be made against them; (3) that the trustee or custodian may only resign in a specified fashion; and (4) that certain records be kept and notice given to securities holders in the event of substitution of the trust's securities.

Applicants state that the provisions of Sections 26(a) and 27(c)(2) were designed to assure performance of contractual obligations under periodic payment plans, to minimize the opportunities for misuse of the assets of unit investment trusts and to prevent sponsors from reaping hidden profits.

Applicants further state that under the provisions of the Delaware Insurance Laws, the Company is not permitted to hold itself out as a trustee of the property of a Separate Account (and cannot place such property in trust in the hands of another). However, Internal Revenue Service regulations require use of a custodian for the purpose of establishing certain tax records which will permit the Company to minimize the

impact of capital gains taxes on the Separate Accounts. Applicants are seeking an exemption from Section 26(a) and Section 27(c)(2) to the extent necessary to permit State Mutual to serve as custodian of the assets of Separate Account F, as well as for Separate Accounts D and E pursuant to the 1978 Order, on the ground that State Mutual's and the Company's status as regulated insurance companies and the Company's obligations as an insurance company to the Contract owners provide substantially the protection contemplated by the requirements of Sections 26(a) and 27(c)(2).

Applicants state that Fund shares owned by the Separate Account will be held on an open account basis and will not be represented by any transferable stock certificates.

The record of the Separate Account will reflect its ownership of Fund shares and Fund records will reflect Separate Account ownership as indicated above. The records of the Fund and of the Separate Account will be cross-verified to insure accuracy. The Company will perform all accounting functions relating to the Separate Accounts. The accounting systems for the Separate Accounts will incorporate internal controls existing in the Company's Accounting Department, and will be subject to audit by the Internal Auditing Department of the Company and a firm of independent accountants. Applicants assert that under the foregoing circumstances, the danger against which Sections 26(a) and 27(c)(2) are directed are not present.

The Applicants consent to this requested exemption being made subject to the conditions (a) that deductions under the Contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, the Commission reserving jurisdiction for such purpose, and (b) that the payment of sums and charges out of the assets of the Separate Accounts shall not be deemed to be exempted from regulation by the Commission by reason of the requested order: provided, the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and the 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 and charges.

Notice Is Further Given that any interested person may, not later than April 28, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following April 28, 1980, 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10423 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21503; 70-6391]

Consolidated Natural Gas Co. and CNG Producing Co. et. al., Proposed Acquisition of Oil and Gas Leaseholds and Mineral Rights From Nonaffiliate

March 31, 1980.

Notice Is Hereby Given that Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, and CNG Producing Company ("CNG Producing"), 1800 Bank of New Orleans Building, 1010 Common Street, New Orleans, Louisiana 70112, a wholly-owned gas exploration and development subsidiary of Consolidated have filed a post-effective amendment to an application-declaration previously filed with this Commision pursuant to the Public Utility Holding Company act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated February 6, 1980 (HCAR No. 21425) CNG Producing was authorized to acquire certain properties ("Properties") from Hidalgo-Willacy Oil Company ("Hidalgo") and further authorized Consolidated to deliver to CNG such number of shares of its authorized but unissued common stock whose market value would, in the aggregate, have equaled $7,000,000. CNG Producing, in turn, would have: (i) delivered such shares to Hidalgo for distribution to the shareholders of Hidalgo, in exchange for the Properties and (ii) delivered to Consolidated in consideration for the Consolidated stock 70,000 shares of its own common stock, $100 per value, at the par value thereof.

Since the issuance of the Commission's order, the terms and conditions proposed for the acquisition of the properties have, at the instance of Hidalgo and its shareholders, been renegotiated. Under the revised terms of the contract, CNG Producing would acquire all of the authorized and outstanding stock of Hidalgo in exchange for an aggregate of $7.6 million in cash and CNG Producing promissory installment notes. Consoldated is not a party to the contract. The notes will be payable in for equal annual installments, and bear interest equal to the prime commerical lending rate at Chase Manhattan Bank, N.A., New York, N.Y., in effect from time to time. At least 50% of such consideration is expected to be in cash; however, under the terms of the renogotiated contract, the exact amount of cash and notes required to be delivered will not be known to CNG Producing until a date not less than 15 days prior to closing. Any cash required by CNG Producing to purchase the Hidalgo stock will be advanced to it by Consolidated. Since the Hidalgo stockholders now have a taxable transaction, a new purchase price of $7,600,000 was negotiated, an increase of $600,000.

Despite the increase in the purchase price, the acquisition becomes even more attractive than before as a result of substantial additional federal income tax deductions which will become available to CNG Producing. These deduction arise through the depreciation and amortization of the much larger tax basis acquired for the properties as a result of the purchase of Hidalgo stock for cash and notes. The tax benefit from these deductions will more than offset the $600,000 in additional purchase price. Under the former agreement, the tax-free nature of the transaction gave

CNG Producing a minimal carry-over basis from Hidalgo in the properties.

Inasmuch as the revised contract calls for CNG Producing to acquire the stock of Hidalgo, Hidalgo will, prior to closing, have disposed of all of its properties other than those intended to be acquired by CNG under the original proposed contract. Simultaneously with the closing or promptly thereafter, Hidalgo will be merged into CNG Producing, CNG Producing being the surviving corporation, and the outstanding Hidalgo stock cancelled. Through this vehicle, CNG Producing will become owner of all the properties originally sought.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $164,600, including mineral consultant's fee of $80,000, service charge of Consolidated Natural Gas Service Company of $30,000 for services performed at cost, and legal fees of $13,000. It is stated that no state or federal regulatory authority, other then this Commission, has jurisdiction over the proposed transaction.

Notice Is Further Given that any interested person may, not later than April 23, 1980 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10424 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6998]

Emerson Radio Corp.; Application to Withdraw From Listing and Registration

March 31, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Emerson Radio Corporation's ("Emerson") common stock, which was listed and registered for trading on February 22, 1978 on the Amex, also became, as of February 6, 1980, listed and registered for trading on the New York Stock Exchange, Inc. ("NYSE"). Simultaneously, pursuant to Rule 12d2-1 of the Act, Amex suspended trading in the issue.

2. Emerson determined the direct and indirect costs and the possibility of market fragmentation do not justify maintaining listings of the shares on both the Amex and NYSE.

This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before April 27, 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. 80-10425 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11107; 812-4565]

Fidelity Fund, Puritan Fund et al.; Filing of Application for Exemption for an Order Exempting Certain Transactions

March 28, 1980.

Notice Is Hereby Given that Fidelity Fund, Puritan Fund, Fidelity Trend Fund, Salem Fund, Fidelity Equity-Income Fund, Contrafund, Congress Street Fund, Magellan Fund, Fidelity Destiny Fund, Fidelity Corporate Bond Fund, Fidelity Daily Income Trust, Fidelity Thrift Trust, Fidelity Limited Term Municipals, Fidelity Municipal Bond Fund, Fidelity Aggressive Income Fund, Fidelity High Yield Municipals, Fidelity Asset Investment Trust, Fidelity Money Market Trust, Fidelity Government Securities Fund, Fidelity Cash Reserves, Fidelity Tax-Exempt Money Market Trust and Fidelity Triad Fund ("Applicants"), 82 Devonshire Street, Boston, Massachusetts 02109, each an open-end investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on November 9, 1979, and amendments thereto on Juanuary 21, 1980, and February 29, 1980, pursuant to Section 6(c) of the Act, for an order of the Commission declaring that Bertram H. Witham, Jr., a director, trustee or general partner of Applicants, shall not be deemed to be an interested person of Applicants within the meaning of Section 2(a)(19) of the Act solely by reason of his status as a consultant to Merrill Lynch International Incorporated ("MLI") and, pursuant to Section 10(f) of the Act, for an order exempting certain transactions of Applicants from the provisions of Section 10(f) of the Act so as to permit Applicants to purchase securities in public offerings in which Merrill Lynch, Pierce, Fenner & Smith, Inc., which may be deemed to be an affiliated person of Mr. Witham, participates as a principal underwriter. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants represent that Mr. Witham presently serves as either a director, trustee or general partner, as the case may be, of each of the Applicants, each of which has entered into an Advisory and Service Contract with Fidelity

Management and Research Company. Applicants further state that Mr. Witham proposes to become a consultant to MLI, a holding and management company all of whose stock is held by Merrill Lynch & Co. ("Merrill Lynch"). Merrill Lynch further holds all the stock of Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Broker"), a broker-dealer registered with the Commission under the Securities Exchange Act of 1934. According to the application, MLI owns through MLI subsidiaries, 95% of the stock of Merrill Lynch International Bank ("Bank") whose activities are currently primarily making loans to non-U.S. borrowers, accepting interbank and individual deposits and trading in foreign exchange, in addition to managing both foreign and domestic syndicated loans, and underwritten offers of floating rate notes of off-shore companies, the majority of which are Japanese banks. Applicants further state that the Bank intends to engage in transactions traditional for merchant banks in London where its principal office is located. Although most of the Bank's business activities are outside of the United States, Applicants state that the Bank also has a representative office in New York. Applicants further state that MLI owns the stock of all of the corporate partners to Merrill Lynch International & Co. C.V. ("International"), a Netherlands Antilles Limited Partnership, which is an off-shore broker-dealer that distributes new issues of Eurodollar bonds to non-U.S. purchasers and trades seasoned Eurodollar issues.

Section 2(a)(19)(A) (v) and (B)(v) of the Act define an "interested person" of an investment company, an investment adviser of an investment company, or a principal underwriter for an investment company to include any broker or dealer registered under the 1934 Act or any affiliated person of such broker or dealer.

Section 10(f) of the Act further provides, in pertinent part, that no registered investment company shall knowingly purchase or acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an officer, director, investment adviser or employee of such investment company, or is a person of which any such officer, director, investment adviser or employee is an affiliated person. Rule 10f-3, adopted by the Commission pursuant to rule-making authority granted by Section 10(f) of the Act, permits certain conditional underwriting transactions prohibited by Section 10(f) of the Act, none of which are asserted by Applicants to be applicable to existing or future purchases of securities between Applicants and the Broker.

An "affiliated person" under Section 2(a)(3) of the Act includes any person directly or indirectly controlling, controlled by or under common control with such other person. Section 2(a)(9) of the Act provides that "control" means the power to exercise a controlling influence over the management or policies of a company, unless the power is solely the result of an official position with such company.

The application states that, while there is a statutory presumption in Section 2(a)(9) of the Act that a natural person is not a control person, that presumption may be rebutted by evidence and upon a contrary determination made by a Commission order an employee of one subsidiary may be determined to be under common control with another subsidiary. Assuming that Mr. Witham, in his status as consultant to MLI, could be termed an employee of MLI, Mr. Witham would be deemed an affiliated person of the Broker by virtue of the Broker and MLI being under the common control of Merrill Lynch. Under such an interpretation, Mr. Witham could also be deemed to be an interested person of Applicants and of their investment adviser and principal underwriter within the meaning of Section 2(a)(19)(A)(v) and (B)(v) of the Act. Mr. Witham could further be considered an affiliated person of the Broker for purposes of determining the applicability of the prohibitions contained in Section 10(f) of the Act. The application states that, while the Applicants do not necessarily agree with such an interpretation, they have deemed it advisable to clarify the status of Mr. Witham by requesting the Commission to exercise its exemptive authority under Section 6(c) and Section 10(f) of the Act.

In support of the relief requested, Applicants assert that Mr. Witham's consulting services for MLI would be performed pursuant to a consulting contract pursuant to which Mr. Witham will be an independent contractor rather than an employee since, among other things he will not be entitled to participate in any plan providing pension, profit sharing or other benefits to the employees of MLI or its affiliates. Applicants further assert that Mr. Witham's duties under the proposed consulting contract will consist of consulting with MLI regarding international financing and the financial management of MLI as a company, with initial emphasis on the development of more efficient financial reporting and control systems and the coordination of MLI's financial operations with those of the Broker, and will not affect the domestic activities of MLI, the Broker or the Bank. While these consulting responsibilities may require that Mr. Witham consult with employees and directors of the Broker itself, Applicants contemplate that any such consultations would be for the purpose of assisting in the foregoing activities and not with respect to either the brokerage or the investment banking business of the Broker, and that Mr. Witham would not otherwise be involved with the Broker.

Applicants further represent that under the proposed consulting contract, neither Merrill Lynch, MLI, International, the Bank or the Broker will have the right to control the specific way in which Mr. Witham's consulting services are to be performed. According to the application, the proposed consulting contract provides that Mr. Witham's work thereunder may be performed to the extent reasonably possible in places and time convenient to Mr. Witham, and that such work would not ordinarily require more than 25 hours per month of his time. The proposed consulting contract further provides that in consideration for his services MLI will pay Mr. Witham a substantial retainer and provide Mr. Witham with office space and part-time secretarial assistance, if he wishes, and that the proposed consulting contract will be automatically renewable each year but is subject to termination upon 30 days' prior written notice by either MLI or Mr. Witham.

On the basis of the foregoing, Applicants submit that Mr. Witham should not be considered an employee of MLI, and thus possibly an affiliated person of the Broker for purposes of determining the appropriateness of granting exemptive relief from the provisions of Section 2(a)(19) and Section 10(f) of the Act.

Applicants represent that none of the Applicants invest in the normal course of their investment activities in the securities distributed or traded in the active market by International, nor in the floating rate notes of off-shore companies placed by the Bank. Applicants further state that even if one or more of the Applicants desired to purchase these types of securities there are sufficient alternate sources for such securities so that Applicants would suffer no loss of investment freedom by reason of being unable to transact business with International or the Bank. Moreover, each Applicant has specifically undertaken in the

application not to transact any business with MLI, International or with the Bank. Applicants further represent that no material business relationship exists between Mr. Witham and the Broker. Moreover, the Applicants allege that even though they expect to engage in transactions with the Broker, since Mr. Witham's consulting activities will be solely those of a consultant to MLI for purposes of financial management, no potential for conflict of interest on Mr. Witham's part will be created. Finally, according to the application, each Applicant desires Mr. Witham to be a member of its Board of Directors or Board of Trustees or to be a Managing General Partner, as the case may be, because he is a person of recognized integrity, judgment, independence and competence in the business world and has proven himself in the past to be a truly disinterested director, trustee or managing general partner, as the case may be.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, 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.

Section 10(f) of the Act further provides that the Commission by rules or regulations upon its own motion, or by order upon application may conditionally or unconditionally, exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors.

Notice Is Further Given that any interested person may, not later than April 22, 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 reasons 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 the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–10422 Filed 4–4–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11108; 811–2760]

INA Capital Bond Trust; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

March 28, 1980.

Notice Is Hereby Given that INA Capital Bond Trust ("Applicant"), Three Parkway, Philadelphia, Pennsylvania 19101, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on February 29, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The Applicant is a trust organized and existing under the laws of the Commonwealth of Pennsylvania. On August 16, 1977, the Applicant registered under the Act by filing its Notification of Registration on Form N–8A and, on the same date, it filed Registration Statements under the Act on Form N–8B–1 and under the Securities Act of 1933 on Form S–5. Applicant's Registration Statement on Form S–5 was ordered effective on January 31, 1978. Thereafter, the Applicant made a continuous offering of its units until September 28, 1979.

The application indicates that on September 28, 1979, both unitholders of the Applicant redeemed all of their units of beneficial interest. Thus, Applicant has no outstanding securities or security holders. In addition, Applicant disposed of all of its portfolio securities in connection with the redemption of their units by both unitholders.

On November 19, 1979, the Board of Trustees of Applicant authorized the filing of the present application, payment of the outstanding debts and liabilities of the Applicant, and distribution of any remaining assets after such payment ratably among the holders of the outstanding units of the Applicant as of September 27, 1979. Upon completion of the foregoing, Applicant shall terminate and the right, title and interest of all trustees in the assets of the Applicant shall be cancelled and discharged.

The application states that Applicant has retained assets of less than $7,000.00 to cover miscellaneous expenses connected with its liquidation. Such assets consist entirely of cash and receivables based on expense reimbursement provisions under the investment management agreement between Applicant and INA Capital Management Corporation, Applicant's investment adviser. The outstanding debt and liabilities of the Applicant consist entirely of accrued expenses for professional fees and fees and expenses for the Applicant's Trustees which have not yet been paid or which are expected to be incurred in the course of the liquidation of the Applicant.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice Is Further Given that any interested person may, not later than April 22, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the

Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-10421 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16712; File No. SR-MSRB-80-1]

Municipal Securities Rulemaking Board; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 25, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

Statement of the Terms of Substance of the Proposed Rule Changes

The Municipal Securities Rulemaking Board is filing herewith amendments to rule G-12 and rule G-15 (hereafter sometimes referred to as the "proposed rule changes"). The text of the proposed rule changes is as follows:

G-12. Uniform Practice*

(a) through (b). No change.

(c) Dealer Confirmations.

(i) through (iv). No change.

(v) (A) through (H). No change.

(I) yield at which transaction was effected and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to premium call or to par option, this must be stated *and the call or option date and price used in the calculation must be shown,* and where a transaction is effected on a yield basis, the dollar price shall be calculated to the lowest of price to premium call, price to par option or price to maturity).

(J) through (N). No change.

(vi). No change.

(d) through (l). No change.

Rule G-15. Customer Confirmations

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) through (vii). No change.

(viii) yield and dollar price, as follows:

(A) for transactions affected on a yield basis, the yield at which transaction was affected and the resulting dollar price shall be shown. Such dollar price shall be calculated to the lowest of price to premium call, price to par option, or price to maturity. In cases in which the dollar price is calculated to premium call or par option, this must be stated [.] *and the call or option date and price used in the calculation must be shown.*

(B) through (C). No change.

(ix) through (xiii). No change.

(b) through (l). No change.

*Italics indicate new language; [brackets] indicate deletions. The text of rule G-15 reflects amendments to the rule approved by the Commission in Securities Exchange Act Release No. 16707 (Mar. 28, 1980) (File No. SR-MSRB-79-6).

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule changes is as follows:

Purpose of Proposed Rule Changes

Rules G-12 and G-15 require brokers, dealers and municipal securities dealers to send written confirmations of municipal securities transactions to dealers and customers, respectively, and prescribe the information to be set forth on the confirmations. These rules currently require that, in the case of transactions affected on the basis of yield price, the dollar price must be calculated to the lowest of price to premium call, price to par option, or price to maturity. The rules further require that, if the dollar price is calculated to a premium call or par option feature, this must be stated on the confirmation.

The proposed rule changes would require that the confirmation of a transaction in which the dollar price has been calculated to a call or option feature set forth the call or option date and price used in the calculation. The Board believes that this information should be on a confirmation so that the contra-party knows the exact basis for the price calculation. Among other purposes, such information will assure that parties to a transaction agree with respect to the determinants of the price of the transaction. The proposed amendment to rule G-15 will also provide customers with important additional information regarding the call or option feature upon which their yield is calculated.

If the Commission determines to approve the proposed rule changes, the Board hereby respectfully requests that the Commission make the proposed rule changes effective on the same date that the proposed rule changes effective on the same date that the proposed amendments to rule G-15 become effective (File No. SR-MSRB-79-6). In File No. SR-MSRB-79-6, the Board requested that the Commission make the proposed amendments effective six months following the date of approval, so that municipal securities dealers would have sufficient time to re-program their data processing systems and to prepare and order new confirmation forms, if necessary. The delay requested herein would enable municipal securities dealers to make all necessary changes in their computer processing systems and confirmation forms at one time.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to propose and adopt rules—

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

Comments Received From Members, Participants or Others on Proposed Rule Changes

The Board did not solicit or receive comment on the proposed rule changes. The Board's consideration of the proposed rule changes was prompted by a recommendation made by several industry members currently serving on the Board's Professional Qualifications Advisory Committee.

Burden on Competition

The Board does not believe that the proposed rule changes will impose any burden on competition in the municipal securities industry insofar as the proposed rule changes will affect all participants equally.

On or before May 12, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 25049. Copies of the filing with respect to the foregoing and all of written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

March 31, 1980.

[FR Doc. 80-10426 Filed 4-4-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

First American Investment Corp.; Filing of Application for Transfer of Control of Licensed Small Business Investment Company

[License No. 04/05-0023]

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1979)) for the transfer of control of First American Investment Company (First American), a Georgia Corporation, and a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), with its office presently located at 300 Interstate North, Atlanta, Georgia 30339.

It is proposed that First American will be merged with and into FAIC Corp., a Georgia Corporation and a wholly owned subsidiary of Alpine Geophysical Associates, Inc., described below, and that FAIC Corp. will immediately be renamed First American Investment Corporation. Following the merger FAIC Corp., then named First American Investment Corporation and its successor in interest, will continue the business of First American and will succeed to all of its assets and liabilities, except for four portfolio concerns which will be acquired by Cousins Properties, Inc. for cash. The capitalization of FAIC Corp. will be the same as First American's without significant change. Alpine Geophysical Associates, Inc. (AGA) has its principal office located all 11 Brook Street, Scarsdale, New York and it is a publicly held company whose shares are traded in the over-the-counter market. AGA owns and will continue to own 100 percent of the issued and outstanding capital stock of FAIC Corp., and it will provide all of the funds (approximately $6,500,000) required by FAIC Corp. to consummate the purchase of 100 percent of the issued and outstanding capital stock of First American Investment Corporation from its parent, Cousins Properties, Inc. There are no shareholders of AGA who own directly or indirectly 10 percent or more of the voting securities of AGA other than Ronald B. Durning, who owns approximately 30 percent of such securities.

The principal office FAIC Corp. will be located at 560 North, Omni International, Atlanta, Georgia 30303, and its officers and directors will be:

Name, address, and relationship

Ronald B. Durning, 45 Mamaroneck Road, Scarsdale, N.Y., Chairman of the Board of Directors.

A. Anderson Huber, 4600 Tuxedo Road, N.W., Atlanta, Ga., President and Director.

Peter J. Chase, 66 Butternut Hollow Road, Greenwich, Conn., Vice President, Secretary-Treasurer, Director.

Steven S. Elbaum, 172 Pacific Street, Brooklyn, N.Y., Director.

FAIC does not intend to continue the policy of its predecessor whereby 100 percent of its assets were allocated to real estate investments. Instead, it intends to pursue a policy of diversifying it portfolio and does not wish real estate related loans and activity to exceed 60–70 percent of its overall business.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed new officers and directors, and the probability of a successful operation of FAIC Corp. (name to be changed to First American Investment Corporation) under their control in accordance with the Act and Regulations promulgated thereunder.

Notice is hereby given that any person may not later than April 17, 1980, submit written comments on the Application to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by FAIC Corp. in a newspaper of general circulation in Atlanta, Georgia, and in Scarsdale, New York.

(Catalogue of Federal Domestic Program No. 59.011, Small Business Investment Companies)

Dated: April 1, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 10435 Filed 4-4-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting; Change in Meeting Date of Scheduled Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, Mississippi, has changed the date for its public meeting to be held on Wednesday, April 23, 1980, at 9:00 a.m. The meeting is now scheduled to be held Wednesday, May 7, 1980, at the Research and Development Tower Building, 7th Floor Conference Room, 3825 Ridgewood Road, Jackson, Mississippi, 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 Sid Spiro, Acting District Director, U.S. Small Business Administration, Suite 322 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201—(601) 969–4363.

Dated: April 1, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-10436 Filed 4-4-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-5258]

Sun Capital Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Sun Capital Corporation (Sun), with the Small

Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders of Sun are as follows:

John Tai-Keung Sun, 35 Willard Lane, Hillsborough, CA 94010, Chairman of the Board, President, Director and 100 Percent Stockholder.

Thomas M. Chin, 233 Sansome Street, San Francisco, CA 94104, Treasurer and Director.

Donald D. Thornton, 20 Amboy Court, San Mateo, CA 94402, Secretary and Director.

Sun, a California corporation, with its principal place of business located at 3360 Geary Boulevard, Suite 305, San Francisco, California 94118, will begin operations with $500,000 of net combined paid-in capital and paid-in surplus derived from the sale of 50,500 shares of common stock. The principal owners and the Board of Directors are the same as set forth above.

Sun will conduct its activities primarily in the State of California.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may on or before April 22, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 2, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-10437 Filed 4-4-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-80-9]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 23, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-204), Peition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

(This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).)

Issued in Washington, D.C., on March 28, 1980.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20203	Capital Aero, Inc	14 CFR § 135.261(a)(1)	To allow petitioner to use a minimum rest period of less than 10 hours in a 24-hour period.
20204	Aeroservice International, Inc	14 CFR Part 63, Appendix C(a)(3)(iv)(a).	To permit a Student Flight Engineer to receive credit for the required five hours training on an aircraft if accompanied by a qualified instructor or flight engineer when observing a flight deck crew in operation on a normal line flight in the aircraft type to be used in an approved training course.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
16137	Viking International Airlines, Inc	14 CFR § 121.59(a)	Amend Exemption No. 2341B to permit petitioner to employ Mr. Douglas Mattson as its Chief Inspector without meeting the full-time employment requirements. *Granted 3/21/80.*
19647	Eli Lilly International Corp	14 CFR § 61.58(c)	To allow the petitioner's pilots to perform all the required maneuvers for a 24-month check in an FAA approved BAC-111 Visual Flight Simulator. *Granted 3/20/80.*
19781	Presidental Airways	14 CFR § 135.261	To allow the petitioner to operate in accordance with FAR 121 Subpart S, flight and duty time limitations, Air Carriers and Commercial Operators, until such time as FAR 135.261 is reviewed and amended. *Denied 3/25/80.*
19834	Seaboard World Airlines & Venezolana International de Aviacion, S.A. (VIASA).	14 CFR Parts 21, 91, and 121	An exemption to the extent necessary to allow Seaboard to periodically dry lease certain of its B-747-200's to VIASA. *Granted 3/25/80.*
19943	Airline Training Institute	14 CFR §§ 61.157(d)(1) and 61.63(d)(2).	To allow petitioner's trainees to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate, in an airplane simulator as set forth in Appendix A of Part 61 in lieu of a flight test. *Granted 3/24/80.*
19944	Tracy A. Barnett	14 CFR § 63.61	To allow the petitioner to be certified as a flight engineer prior to his twenty-first birthday. *Denied 3/25/80.*
19955	Frederick Community College	14 CFR §§ 65.71, 65.75, and 65.77.	To allow petitioner's students to take the general portion of the mechanic written examination prior to completing either the airframe or powerplant portion of the approved curriculum. *Denied 3/21/80.*
20046	Transcargo Airlines, Ltd	14 CFR Parts 21, and 91	To permit the operation of a leased U.S.-registered B-707-321C aircraft N473RN using an FAA-approved MEL, and maintenance program. *Granted 3/19/80.*
20061	Bar Harbor Airlines	14 CFR § 121.61(d)(2)	To permit petitioner to employ Mr. Neil Gillissen as their Chief Inspector without meeting the requirement for 3 years experience on large aircraft with an air carrier. *Granted 3/21/80.*
20168	Republic Airlines, Inc	14 CFR § 121.291(a)	To permit the introduction of the B-727-200 aircraft into passenger-carrying operations, configured with 164 passenger seats, without conducting a full-scale emergency evacuation demonstration. *Granted 3/25/79.*
20197	Malaysian Airline System Berhad (MAS) and World Airways, Inc.	14 CFR Parts 21, 43, 91, and 121	To allow MAS to operate U.S.-registered DC-10-30CF aircraft N108WA leased from World and for World to maintain that aircraft. To allow MAS to use World's FAA-approved minimum equipment list (MEL) and airworthiness maintenance program and that the aircraft be automatically reinstated on World's operating specifications upon termination of the aircraft lease arrangement. *Granted 3/25/80.*

[FR Doc. 80-10186 Filed 4-4-80; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the Committee's Task Force on Driver, Vehicle and Highway Compatibility. The meeting will be held April 24-25, 1980. The meeting will start at 9:00 a.m. on both days in room 4234 of the DOT Headquarters Building, 400 7th Street, S.W., Washington, D.C. The Task Force will meet to discuss and prepare its report on compatibility issues.

Attendance is open to the interested public, but limited to the space available. Members of the public may present a written statment to the Task Force.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 7th Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., April 1, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80-10296 Filed 4-4-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). Egypt has been deleted from this list in response to the fact that Egypt's participation in the Arab economic boycott of Israel was formally terminated on January 25, 1980, in accordance with Article 2, Annex III of the Peace Treaty between Egypt and Israel. Accordingly, the deletion of Egypt from the list of countries requiring cooperation with an international boycott is retroactively effective to January 26, 1980.

Taxpayers are reminded of the reporting requirements of section 999(a)(1)(B), which are relevant to all countries not included on the Secretary's list.

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954).

Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen Arab Republic, Yemen, Peoples Democratic Republic of.

Dated: April 1, 1980.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 80-10315 Filed 4-4-80; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 68
Monday, April 7, 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

FEDERAL ENERGY REGULATORY COMMISSION.

Notice of meeting, *April 9, 1980.* The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., April 9, 1980.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone 202-357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—445th Meeting, April 9, 1980, Regular Meeting (10:00 a.m.)

CAP-1. Docket No. ER79-332, Ohio Power Co.
CAP-2. Docket No. ER79-121, Utah Power & Light Co.
CAP-3. Dockets Nos. ER79-166 and ER80-9, Kansas City Power & Light Co.
CAP-4. Docket No. ER79-566, Interstate Power Co.
CAP-5. Docket No. E-7777(II), Pacific Gas & Electric Co.; Docket No. E-7796, Pacific Power & Light Co.
CAP-6. Dockets Nos. E-7631 and E-7633, City of Cleveland, Ohio v. Cleveland Electric Illuminating Co.; Docket No. E-7713, City of Cleveland, Ohio.
CAP-7. Docket No. EL79-8, Central Power & Light Co., Public Service Co. of Oklahoma, Southwestern Electric Power Co. and West Texas Utilities Co.

Miscellaneous Agenda—445th Meeting, April 9, 1980, Regular Meeting

CAM-1. Docket No. RA80-14, Tyson Oil Co.

Gas Agenda—445th Meeting, April 9, 1980, Regular Meeting

CAG-1. Docket No. RP75-106(Appalachian production), Columbia Gas Transmission Corp.
CAG-2. Docket No. CP77-337, Algonquin Gas Transmission Co.
CAG-3. Docket No. RP79-70, Oklahoma Natural Gas Gathering Corp.
CAG-4. Dockets Nos. RP72-155, RP79-12 (PGA79-2) (AP79-2) and RP79-37, El Paso Natural Gas Co.
CAG-5. Docket No. RP71-125, Natural Gas Pipeline Co. of America.
CAG-6. Docket No. CI80-21, Louisiana Land Offshore Exploration Co., Inc.; Docket No. CI79-580, Union Oil Co. of California; Docket No. CI78-672, Cities Service Co.; Docket No. CI79-421, Marathon Oil Co.; Docket No. CI80-25, Transwestern Gas Supply Co.; Docket No. CI79-520, The Louisiana Land & Exploration Co.; Docket No. CI79-416, Diamond Shamrock Corp.; Docket No. CI79-510, Cotton Petroleum Corp.; Docket No. CI79-30, Amoco Production Co.; Docket No. CI79-462, Cities Service Co.; Docket No. CI76-705, MRT Exploration Co.; Docket No. CI77-345, Et al., Amoco Production Co., et al.; Docket No. CI79-572, Pioneer Production Co.; Docket No. CI79-597, Anadarko Production Co.; Docket No. CI79-615, Terra Resources, Inc.; Docket No. CI79-663, Quintana Gulf, Inc.; Docket No. CI79-664, Quintana Offshore, Inc.; Docket No. CI79-665, Quintana Oceanic, Inc.; Docket No. CI79-673, Mobil Oil Exploration & Producing Southeast, Inc.; Docket No. CI79-679, Getty Oil Co.; Docket No. CI80-3, Conoco, Inc.; Docket No. CI80-4, The Louisiana Land & Exploration Co.; Docket No. G-9299, Et al., Phillips Petroleum Co., et al.; Dockets Nos. CI79-348, CI79-433 and CI79-465, Transco Exploration Co.; Docket No. CI64-664, Texaco, Inc.; Docket No. CI78-728, Cotton Petroleum Corp.; Docket No. CI79-535, Pogo Producing Co.; Docket No. CI79-536, Pennzoil Oil & Gas, Inc.; Docket No. CI72-620, Et al., Chevron U.S.A., Inc., et al.; Docket No. CI79-551, Pogo Producing Co.; Dockets Nos. CI79-555, CI79-556, CI79-558, CI79-561, CI79-582, CI79-584, CI79-588, Pogo Producing Co.; Docket No. CI79-565, Pennzoil Oil & Gas Inc.; Dockets Nos. CI79-566, CI79-567, CI79-568, and CI79-570, Pennzoil Oil & Gas Inc.; Docket No. CI79-579, Sabine Production Co.; Docket No. CI79-596 (CS69-25), Anadarko Production Co.; Docket No. CI79-611, Union Oil Co. of California; Docket No. CI79-603, Amoco Production Co.; Dockets Nos. CI79-625, CI79-629, and CI79-630, Amerada Hess Corp.; Docket No. CI79-595, Anadarko Production Co.; Docket No. CI80-146, Phillips Petroleum Co.; Docket No. CI77-123, Gulf Oil Corp.; Docket No. CI80-31, Texas Eastern Exploration Co.; Docket No. CI78-1117, Texas Eastern Exploration Co.; Docket No. G-13746, Et al., Mobil Oil Exploration & Producing Southeast, Inc., et al.; Docket No. CI77-365, General American Oil Co. of Texas; Docket No. CI79-574, Quintana Offshore, Inc.; Docket No. CI79-577, Aminoil U.S.A., Inc.; Docket No. CI80-37, GAO; Docket No. CI80-58, Transco Exploration Co.; Docket No. CI78-1124, Terra Resources, Inc.; Docket No. CI79-528, Amerada Hess Corp.; Docket No. CI79-530, Amerada Hess Corp.; Dockets Nos. CI79-554, and CI79-562, Terra Resources, Inc.; Docket No. CI79-573, Quintana Oil & Gas Corp.; Docket No. CI79-614 CNG Producing Co.; Docket No. CI77-557, Et al., Gulf Oil Corp., et al.; Docket No. CI79-594, Anadarko Production Co.; Docket No. CI65-453, Et al., Atlantic Richfield Co., et al.; Docket No. CI78-460, Kerr-McGee Corp.; Docket No. CI69-691, Atlantic Richfield Co.; Docket No. CI79-205, Tenneco Oil Co.; Docket No. CI80-45, Pennzoil Producing Co.; Docket No. CI80-46, Pogo Producing Co.; Docket No. CI80-50, Pennzoil Oil & Gas, Inc.; Docket No. CI74-734, The Superior Oil Co.; Docket No. CI75-22, Gulf Oil Corp.; Docket No. CI78-1018, CNG Production Co.; Docket No. CI79-600, Northwestern Mutual Life Insurance Co.; Dockets Nos. CI79-577 and CI80-60, Ocean Production Co., et al.; Dockets Nos. CI79-33 and CI79-51, Amoco Production Co.
CAG-7. Docket No. CS71-383, Texasgulf, Inc.
CAG-8. Docket No. G-4143, Gulf Oil Corp.
CAG-9. Docket No. CI77-42, Mobil Oil Exploration & Producing Southeast, Inc.
CAG-10. United Gas Pipe Line Co.
CAG-11. Elizabethtown Gas Co.
CAG-12. Docket No. RP71-29, United Gas Pipe Line Co.
CAG-13. Docket No. TC80-60, Alabama-Tennessee Natural Gas Co.; Docket No. TC80-61, Algonquin Gas Transmission Co.; Docket No. TC80-62, Arkansas-Louisiana Gas Co.; Docket No. TC80-63, Cities Service Gas Co.; Docket No. TC80-64, Colorado Interstate Gas Co.; Docket No. TC80-65, Columbia Gas Transmission Corp.; Docket No. TC80-66, Consolidated Gas Supply Corp.; Docket No. TC80-67, East Tennessee Natural Gas Co.; Docket No. TC80-68, Eastern Shore Natural Gas Co.; Docket No. TC80-69, El Paso Natural Gas Co.; Docket No. TC80-70, Florida Gas Transmission Co.; Docket No. TC80-71, Michigan-Wisconsin Pipe Line Co.; Docket No. TC80-72, Midwestern Gas

Transmission Co.; Docket No. TC80–73, Mississippi River Transmission Co.; Docket No. TC80–74, National Fuel Gas Supply Corp.; Docket No. TC80–75, Natural Gas Pipeline Co. of America; Docket No. TC80–76, Northern Natural Gas Co.; Docket No. TC80–77, Northwest Pipeline Corp.; Docket No. TC80–78, Panhandle Eastern Pipe Line Co.; Docket No. TC80–79, Southern Natural Gas Co.; Docket No. TC80–80, Tennessee Gas Pipeline Co.; Docket No. TC80–81, Tennessee Natural Gas Lines, Inc.; Docket No. TC80–82, Texas Eastern Transmission Corp.; Docket No. TC80–83, Texas Gas Transmission Corp.; Docket No. TC80–84, Transcontinental Gas Pipe Line Corp.; Docket No. TC80–85, Transwestern Pipeline Co.; Docket No. TC80–86, Trunkline Gas Co.; Docket No. TC80–87, United Gas Pipe Line Co.

CAG–14. Dockets Nos. CP78–123, Et al., CP79–59, CP79–170, Northwest Alaskan Pipeline Corp.; Docket No. CP79–56, Northwest Pipeline Corp.; Docket No. CP79–57, El Paso Natural Gas Co.; Docket No. CP79–58, Pacific Interstate Transmission Co.; Docket No. CP79–60, Pacific Gas Transmission Co.; Docket No. CP78–124, Northern Border Pipe Line Co.

CAG–15. Docket No. CP79–198, Iowa Power & Light Co., applicant Northern Natural Gas Co., respondent Docket No. CP80–259, Northern Natural Gas Co.

CAG–16. Docket No. CP80–224, Union Texas Petroleum, a division of Allied Chemical Corp.; Docket No. CP80–225, West Lake Arthur Corp.

CAG–17. Docket No. CP80–33, Columbia LNG Corp. & Consolidated System LNG Co.

CAG–18. Docket No. CP79–457, Mississippi River Transmission Corp.; Docket No. CP79–376, Panhandle Eastern Pipeline Corp. & Trunkline Gas Co.; Docket No. CP80–143, Kansas-Nebraska Natural Gas Co.

CAG–19. Docket No. CP80–229, Mississippi River Transmission Corp.

CAG–20. Docket No. CP80–219, Southern Natural Gas Co.; Docket No. CP80–230, Mid Louisiana Gas Co.; Docket No. CP80–239, Cities Service Gas Co.

CAG–21. Docket No. CP80–157, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.

CAG–22. Docket No. CP77–566, Transcontinental Gas Pipe Line Corp. and Michigan Wisconsin Pipe Line Co.; Docket No. CP79–389, Transcontinental Gas Pipe Line Corp.

CAG–23. Docket No. CP79–218, Transcontinental Gas Pipe Line Corp.

CAG–24. Docket No. CP79–354, Columbia Gulf Transmission Co.

CAG–25. Docket No. CP80–97, Southern Natural Gas Co.

CAG–26. Docket No. CP74–157, Michigan Wisconsin Pipe Line Co.

CAG–27. Docket No. CP78–290, Mountain Fuel Supply Co.

CAG–28. Docket No. CP79–360, Northern Natural Gas Co.

CAG–29. Docket No. CP80–164, Michigan Wisconsin Pipe Line Co.

CAG–30. Docket No. CP80–183, Southwest Gas Corp.

CAG–31. Docket No. CP80–191, Columbia Gas Transmission Corp.

CAG–32. Docket No. CP80–11, Southern Natural Gas Co.

CAG–33. Docket No. CP80–171, Cities Service Gas Co.

CAG–34. Docket No. CP76–370, Tennessee Gas Pipeline Co., a division of Tenneco Inc. and Natural Gas Pipeline Co. of America.

CAG–35. Docket No. CP80–150, Transcontinental Gas Pipe Line Corp.

CAG–36. Docket No. CP80–14, Columbia Gas Transmission Corp.

Power Agenda—445th Meeting, April 9, 1980, Regular Meeting

I. Electric Rate Matters

ER–1. Docket No. ER80–71, Central Illinois Public Service Co.

ER–2. Docket No. ER80–106, Commonwealth Edison Co.

ER–3. Docket No. ER80–222, Georgia Power Co.

ER–4. Docket No. ER80–241, Superior Water, Light & Power Co.

ER–5. Docket No. ER80–220, New England Power Co.

ER–6. Docket Nos. ER80–379, ER78–381, ER78–382 and ER78–383, Indiana & Michigan Electric Co.

ER–7. Docket Nos. E–9520 and ER77–531, Illinois Power Co.

ER–8. Docket No. E–9563, U.S. Department of the Interior, Bonneville Power Administration.

ER–9. Docket Nos. ER78–337 and ER78–338 (Phase II), Public Service Co. of New Mexico.

ER–10. Docket No. ER77–488 and ER78–520 (Phase I), El Paso Electric Co.

ER–11. Docket No. ER76–827, Minnesota Power & Light Co.

ER–12. Docket No. EL79–10, Wisconsin River Power Co.

ER–13. Docket No. EL80–4, Metropolitan Edison Co.

ER–14. Docket No. EL78–23, Sierra Pacific Power Co. v. Utah Power & Light Co.

Miscellaneous Agenda—445th Meeting, April 3, 1980, Regular Meeting

M–1. Docket No. RM79–35, exemptions of small conduit hydroelectric facilities from part I of the Federal Power Act.

M–2. Docket No. RM79–52, Continuance of service.

M–3. Docket No. RM79–28, Amendments to part 32 of the regulations under the Federal Power Act; regulation governing interchange energy transmission rates for section 202(c) emergencies.

M–4. Docket No. RM79–29, Amendments to part 35 of the regulations under the Federal Power Act; proposed limitations on addebs for all electric rates.

M–5. Reserved.

M–6. Reserved.

M–7. Docket No. RM78–22 (Part 11), revision to rules of practice; settlements.

M–8. Docket No. RM78–22 (Part 12), revision to rules of practice; format for briefs.

M–9. Docket No. RM79–78, final rule under the NGPA defining the term new well.

M–10. Docket No. RM79–67, procedures governing applications for special relief under sections 104, 106, and 109 of the Natural Gas Policy Act of 1978.

M–11. Docket No. GP80– , section 108 NGPA determinations, Southland Royalty Co., Oliver No. 1 well, JD79–203, McClanahan No. 18 well, JD79–11326; Docket No. GP80– , section 108 NGPA determinations, Conoco Inc., AXI Apache J. No. 19 well, JD79–1803 Lockhart B–11 No. 16 well, JD79–18202.

Gas Agenda—445th Meeting, April 9, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket Nos. OR79–1 and OR78–1, Williams Pipe Line Co. and Trans Alaska Pipeline System.

II. Producer Matters

CI–1. Docket No. G–17136, Trice Production Co.; Docket No. G–18516, Oleum Inc.; Docket No. RI60–234, Trice Production Co.

CI–2. Docket Nos. AR61–2, et al., and AR69–1, et al., area rate proceeding, et al. (South Louisiana area).

III. Pipeline Certificate Matters

CI–1. Docket No. CP75–104, et al., High Island offshore system; Docket No. CP76–118, U-T offshore system.

CP–2. Docket No. CP79–234, Algonquin Gas Transmission Co.; Docket No. CP79–338, Texas Eastern Transmission Corp.; Docket No. No. CP79–339, Texas Eastern Transmission Corp.; Docket CP79–368, Transcontinental Gas Pipe Line Corp.; Docket No. CP79–369, Transcontinental Gas Pipe Line Corp.

CPI–3. Docket No. CP79–473, Alabama-Tennessee Natural Gas Co.

CPI–4. Docket No. CP79–174, Kansas-Nebraska Natural Gas Co., Inc.

CPI–5. Docket Nos. CP79–123, et al., Northwest Alaskan Pipeline Co., et al.

CPI–6. Docket No. CP79–123, et al., Northwest Alaskan Pipeline Co., et al. (Eastern Leg Prebuild).

Kenneth F. Plumb,

Secretary.

[S–608–80 Filed 4–3–80; 10:37 am]

BILLING CODE 6450–85–M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., April 10, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Application for Branch Office—First Federal Savings and Loan Association of Lake Worth, Lake Worth, Florida.

Application for Limited Facility—AmeriFirst Federal Savings and Loan Association, Miami, Florida.

Merger—Tuscan Savings and Loan Association, Baltimore, Maryland, INTO Chesapeake Federal Savings and Loan Association, Baltimore, Maryland.

Conversion to a State-Chartered Mutual Association—Washington Federal Savings and Loan Association, Miami Beach, Florida.

Application for a Commitment to Insure Accounts—People's Savings and Loan Association, Honolulu, Hawaii.

Voluntary Termination of Insurance of Accounts and Withdrawal From Bank Membership—Inter Valley Savings Association, Elmwood Place, Ohio.

Request for Waiver of Liquidity Penalties—United Savings and Loan Association, Ogden, Utah.

No. 334, April 3, 1980.

[S-704-80 Filed 4-3-80; 3:32 pm]

BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR page 21436, April 1, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., April 4, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The meeting previously scheduled for Friday, April 4, 1980 has been changed to Thursday, April 3, 1980. The time has also been changed to 11:30 a.m. instead of 9:30 a.m.

The following items have been added to the agenda for the open meeting: Regulation on Renegotiable Rate Mortgages; Regulation on Service Corporation Investment; Preemption of State Usury Laws.

Announcement is being made at the earliest practicable time.

No. 333, April 2, 1980.

[S-701-80 Filed 4-3-80; 2:56 pm]

BILLING CODE 6720-01-M

4

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 20619, March 28, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, April 2, 1980.

CHANGES IN THE MEETING: Addition of the following open item to the meeting: Proposal that the Board initiate rulemaking proceedings in regard to implementation of the Credit Control Act.

CONTACT PERSON FOR MORE INFORMATION: MR. JOSEPH R. COYNE, ASSISTANT TO THE BOARD; 202-452-3204.

Dated: April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-699-80 Filed 4-3-80; 11:53 am]

BILLING CODE 6210-01-M

5

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forwarded to Federal Register on April 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, April 9, 1980.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda: Proposed statement to be presented to the Subcommittee on General Oversight and Minority Enterprise of the House Committee on Small Business regarding the impact of inflation on small business.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; 202-452-3204.

Dated: April 3, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-700-80 Filed 4-3-80; 11:53 am]

BILLING CODE 6210-01-M

6

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 2 p.m., Thursday, April 10, 1980.

PLACE: Seventh Floor Board room, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Central Liquidity Facility Dividend.
3. Proposed Rule—Deregulation of Section 701.21-1 (c) of the National Credit Union Administration Rules and Regulations.
4. Report on actions taken under delegations of authority.
5. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 2:30 p.m.

TIME AND DATE: 3 p.m., Thursday, April 10, 1980.

PLACE: Seventh floor Board room 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Administrative Actions. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
2. Department of Labor proposed regulation. Closed pursuant to exemptions 9(B), (10).

CONTACT PERSON FOR MORE INFORMATION: Beatrix D. Fields, Acting Secretary of the Board, Telephone (202)-357-1100.

[S-705-80 Filed 4-3-80; 3:56 pm]

BILLING CODE 7535-01-M

7

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 20275, March 27, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, April 3, 1980, 9 a.m. [NM-80-15].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first four items are open to the public; the fifth item will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Downeast Airlines, Inc., deHavilland DHC-6-200, N68DE, Rockland, Maine, May 30, 1979.
2. *Highway Accident Report*—Two Vehicle Collision and Fire, U.S. Route 422, Indiana, Pennsylvania, September 22, 1979.
3. *Railroad Accident Report*—Head-End Collision of Amtrak Train No. 51 at Harvey, Illinois, on October 12, 1979.
4. *Proposed Special Study*—Vehicle Size and Effects.
5. *Order*—Administrator V. McHenry, Dkt. SM-2316; disposition of petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

April 3, 1980.

[S-706-80 Filed 4-3-80; 4:13 pm]

BILLING CODE 4910-58-M

8

[NM-80-16]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Wednesday, April 16, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Fishing Vessel LOBSTA-1 Capsizing and Sinking in Atlantic Ocean Southeast of point Judith, Rhode Island, September 23, 1978.

2. *Pipeline Accident Report*—Columbia Liquefied Natural Gas Corporation, Substation Explosion and Fire, Cove Point, Maryland, October 6, 1979.

3. *Aircraft Accident Report*—Thurman L. Munson, Cessna Citation CE-501, N15NY, Canton, Ohio, August 2, 1979.

4. *Discussion* of recommended policy on credits for studies and reports.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

April 3, 1980.

[S-707-80 Filed 4-3-80; 4:13 pm]

BILLING CODE 4910-58-M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, April 9, 1980.

PLACE: Commissioners' Conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

1. Discussion of Comments and Options on Indian Point Nuclear Power Station (approximately 1½ hours, public meeting).

2. Affirmation Session (Approximately 10 minutes, public meeting).

a. Amendments on Updating FSARs (TENT).

b. ENO Determination for TMI Accident.

c. PRM by W. Eddleman re Late Filings.

3. Time Reserved for Discussion and Vote on Affirmation Items, (if required 15 minutes, public meeting).

2 p.m.

1. Time Reserved for Possible Briefing on Low-Power License for Salem (2 hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee 202-634-1410.

Automatic telephone answering service for daily update: (202)-634-14198. Those planning to attend a meeting should reverify the status whenever possible.

Walter Magee,

Office of the Secretary.

[S-697-80 Filed 4-3-80; 10:12 am]

BILLING CODE 7590-01-M

10

POSTAL SERVICE (Board of Governors)

Notice of Closed Meeting. On April 1, 1980, the Governors of the United States Postal Service unanimously voted to close to public observation a portion of the meeting of that date, at which the Governors discussed the Opinion and Recommended Decision upon Reconsideration of the Postal Rate Commission dated March 24, 1980, re Third-Class Carrier Route Presort Proposal, 1978 (Commission Docket No. MC78-2).

The Governors determined that, pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the portion of the meeting to be closed was exempt from the open meeting requirement of the Government in the Sunshine Act in that it was likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and that the public interest did not require the discussion of this matter to be open to the public. In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service certified that in his opinion the portion of a meeting to be closed might properly be closed to public observation pursuant to 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations.

The persons who attended the closed portion of the meeting were Board members Wright, Allen, Camp, Ching, Hardesty, Sullivan, Bolger and Conway, Senior Assistant Postmaster General Finch, Assistant Postmaster General McCaffrey, and Secretary of the Board Cox.

Louis A. Cox,

Secretary.

[S-702-80 Filed 4-3-80; 2:56 pm]

BILLING CODE 7710-12-M

11

POSTAL SERVICE (Board of Governors)

Notice of Vote to Close Meeting. On April 1, 1980, the Board of Governors of the United States Postal Service voted to close to public observation its next meeting, scheduled for April 20, 1980. Each of the members of the Board voted in favor of closing each portion of this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; Assistant Postmaster General McCaffrey, and Secretary of the Board Cox.

A portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking which was commenced at the Board's meeting of December 4, 1979, and continued at its meetings of January 7, March 4, March 31, and April 1, 1980.

The Board is of the opinion that public access to the planned discussion of future postal ratemaking strategies would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Board able to provide policy guidance to postal management on ratemaking issues on the basis of candid exploration of those issues, without concern for unreasonably influencing particular litigation. A number of these issues are likely to be the subjects both of administrative litigation during the course of the Postal Service's next general rate proceeding before the Postal Rate Commission and of the appellate judicial litigation which will probably follow that proceeding.

Accordingly the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible ratemaking strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and 552b(c)(10) of title 5 and section 410(c)(4) of title 39, United States Code, and sections 7.3(c) and 7.3(j) of title 39, Code of Federal Regulations.

The second portion of the meeting to be closed will consist of a continuation of the discussion by the Governors of the Opinion and Recommended Decision Upon Reconsideration of the Postal Rate Commission dated March 24, 1980, re Third-Class Carrier Route

Presort Proposal, 1978 (Commission Docket No. MC78-2).

The Governors are of the opinion that public access to the discussion would be likely to disclose matters whose disclosure would be inconsistent with the public interest in having the Governors candidly discuss the pro's and con's of possible alternatives open to them under the pertinent part of the Postal Reorganizaiton Act (39 U.S.C. § 3625(d)) without concern for unreasonably influencing particular litigation, including both litigation that may arise from the Governors' final decision in the Carrier Route Presort case and the litigation involving the next general rate proceeding referred to earlier in this Notice.

Accordingly, the Governors have determined that, pursuant to section 552b(c)(10) of Title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act in that it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and that the public interest does not require the discussion of this matter to be open to the public. In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of a meeting to be closed might properly be closed to public observation pursuant to 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations.

The third and final portion of the meeting to be closed will consist of a discussion by the Governors of the anticipated Opinion and Recommended Decision Upon Reconsideration of the Postal Rate Commission re Electronic Mail Classification Proposal, 1978 (Commisison Docket No. MC78-3), the Commission having issued a news release stating that it will issue its Further Recommended Decision on April 8, 1980.

The Governors are of the opinion that public access to the discussion would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Governors candidly discuss the pro's and con's of possible alternatives open to them under the pertinent part of the Postal Reorganization Act (39 U.S.C. § 3625(d)) without concern for unreasonably influencing particular litigation, including both litigation that may arise from the Governors final decision in the Electronic Mail case and litigation currently pending before the Court of Appeals for the D.C. Circuit concerning the jurisdiction of the Federal Communications Commission over the Postal Service's planned Electronic Computer Originated Mail (E-COM) service.

Accordingly, the Governors have determined that, pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act in that it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and that the public interest does not require the discussion of this matter to be open to the public. In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of a meeting to be closed might properly be closed to public observation pursuant to 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-703-80 Filed 4-3-80; 2:56 pm]

BILLING CODE 7710-12-M

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SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published.]

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, March 25, 1980.

CHANGES IN THE MEETING: Additional items:

The following additional items will be considered at a closed meeting scheduled for Thursday, April 3, 1980, at 10 a.m:

Litigation matter.

Institution of injunctive action and administrative proceeding.

Settlement of injunctive action.

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

April 2, 1980.

[S-696-80 Filed 4-2-80; 5:04 pm]

BILLING CODE 8010-01-M

federal register

Monday
April 7, 1980

Part II

Department of Health, Education, and Welfare

Office of Education

Grants to State Educational Agencies for Educational Improvement, Resources, and Support

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 134

Grants to State Educational Agencies for Educational Improvement, Resources, and Support

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: These final regulations govern programs and projects for educational improvement, resources, and support under Title IV of the Elementary and Secondary Education Act (ESEA). The regulations are required by the Education Amendments of 1978 and by additional program experience. These regulations:

(a) Clarify which provisions of the Education Amendments of 1974 still apply;

(b) Reflect statutory changes with respect to such issues as (1) the creation of a separate Part D for the guidance, counseling, and testing program; (2) the distribution of Part B funds; and (3) the participation of private school children; and

(c) Reflect program management revisions with respect to (1) uses of title IV funds; (2) allowable costs; (3) program evaluation; and (4) control of materials and equipment.

EFFECTIVE DATE: These regulations are expected to be effective forty-five days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the Federal Register. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact persons.

FOR FURTHER INFORMATION CONTACT: For Part B—Instructional Materials and School Library Resources Program: Louise V. Sutherland, School Media Resources Branch, 400 Maryland Avenue, S.W., (Room 3125–B, ROB–3), Washington, D.C. 20202, Telephone 202–245–2488.

For Part C—Improvement in Local Educational Practice Program: Allen J. King, Division of State Educational Assistance Programs, 400 Maryland Avenue, S.W., (Room 3010, ROB–3), Washington, D.C. 20202, Telephone 202–245–2592.

For Part D—Guidance, Counseling, and Testing Program: Bryan T. Gray, Division of State Educational Assistance Programs, 400 Maryland Avenue, S.W., (Room 3010, ROB–3), Washington, D.C. 20202, Telephone 202–472–1357.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register on May 14, 1979 (44 FR 28238) that proposed changes in 45 CFR Part 134 and the deletion of parts 134a and 134b. These regulations implement new requirements resulting from the Education Amendments of 1978, Pub. L. 95–561, reflect certain program management revisions, and clarify existing program requirements. These regulations also reflect the technical amendments made to the title IV statute by Pub. L. 96–46.

During June 1979 the Commissioner held public hearings on the proposed regulations in ten cities throughout the United States. Interested parties were also given sixty days to make written comments on the proposed regulations.

The Office of Education informed Chief State School Officers in a memorandum dated July 18, 1979, that guidance, counseling, and testing activities may be conducted by LEAs, at their discretion, during fiscal year 1980, with Part B funds. For school year 1980–81 it appears likely that funds will be appropriated for Part D of the Title IV program. In that event, the regulations of 45 CFR Part 134 that apply to Part D will govern those funds. The appendix to the preamble reflects the many comments on the proposed regulations that were received and the Commissioner's response to them, and indicates whether or not the regulations have been changed. Certain other typographical corrections have been made to the regulations for clarification. The major issues raised by the commenters are summarized below.

1. General

Participation of private school children in Parts C and D. Several commenters objected to the requirement that children attending private schools may participate in a Part C or Part D project only if the LEA in which the private school is located is participating in that program and children attending public schools within that LEA are also receiving Part C or Part D benefits, respectively.

No change has been made from the proposed rules. While all LEAs are eligible to participate in the various title IV programs, only an LEA that submits an application that is approved by the SEA is "eligible to receive funds" within the meaning of section 406 of the law. Section 134.71 of the regulations explains the requirements for the LEA's consultation with representatives of private school children regarding the LEA's decision to participate in the title IV program. The basic principle that LEAs provide equitably for children attending private schools applies only to those LEAs that choose to participate in the title IV program. The exception to this principle authorized by Congress in the 1978 amendments applies to Part B alone.

2. Part B

(a) *Exclusion of "band instruments" and "gym equipment" as eligible types of instructional equipment.* A very large number of commenters objected to the exclusion of these items because of the educational and social values of music and physical education in instructional programs. The definition of "instructional equipment" has been changed to allow the acquisition of "musical instruments" and "physical education equipment" if used for instructional purposes in music or physical education classes in the school's regular instructional program.

(b) *Formula for distribution of part B funds.* Commenters generally felt that the proposed rules (§ 134.40) were unclear and that the percentage of additional funds to be allocated to LEAs selected under high cost or tax effort factors was too high. The regulations are reworded and include an example. However, the requirement that the higher per pupil amount awarded to LEAs qualifying under the high tax effort or high cost factors be *at least* 200 percent of the per pupil amount—based on enrollment—that the SEA awards to an LEA not selected under the other two factors remains.

(c) *Special indirect cost rate.* Commenters objected to the requirement that an LEA that desires to use an indirect cost rate negotiate a special indirect cost rate for Part B with its SEA. This requirement, which is imposed by 45 CFR Part 74, *Administration of Grants,* has been clarified. The SEA may obtain information on negotiating these indirect costs from the Director, Regional Administrative Support Center, in each of the ten HEW Regional Offices. An LEA may consider the cost of processing, cataloging, and delivering instructional materials and equipment to the first point of use as indirect costs.

3. Part C

(a) *Five year limitation on project funding.* A large number of commenters objected to the five year limit on the funding of a Part C project. No change has been made from the proposed rule. Section 432(a) of the Act provides that "funds may be made available to an

LEA under [Part C] for a particular activity not to exceed five fiscal years * * *." However, as used in the statute, the term "activity" refers to the substantive nature of authorized projects, such as projects for handicapped children or projects for educationally deprived children, not the stages of a project, such as development and demonstration. Also, the legislative history of the Education Amendments of 1978 indicates that Congress intended to limit the length of Part C projects to approximately five years.

(b) *Continued support of successful Part C projects with non-Federal funds.* A large number of commenters objected to the requirement that an LEA intend to support successful Part C project activities with non-Federal resources as a part of its regular school program when Part C funds are no longer provided. The regulations have been changed. They now provide that, for the purpose of this requirement, an activity that is supported by funds for which the LEA must compete against other LEAs or similar applicants may not be considered as part of the LEA's regular school program.

(c) *Limitation on the use of Part C program funds for dissemination of information and technical assistance.* A large number of commenters objected to provisions of the proposed regulations which limited an LEA's use of Part C funds to disseminate information and provide technical assistance outside its boundaries to no more than 25 percent of the LEA's subgrant during the project's last two years of part C funding.

The limitations upon an LEA's use of Part C funds to demonstrate its Part C project for the benefit of children enrolled in schools outside its boundaries have been rewritten (§ 134.57). The inflexible restriction to 25 percent of the LEA's last two subgrants has been deleted. These final regulations state that an SEA may award Part C funds to an LEA for demonstration of its project outside its boundaries when the SEA determines that certain prerequisites have been met.

In addition, these final regulations prescribe the criteria by which the SEA determines the amount of Part C funds it is appropriate to devote to this type of demonstration, subject to a "ceiling." The Commissioner believes these final regulations implement in a more purposeful and flexible manner the statutory emphasis upon meeting the educational needs the LEA identifies within its own boundaries.

In response to suggestions of the public and other interested parties, these final regulations contain provisions that were not in the notice of proposed rulemaking. This includes certain provisions of the statute governing the programs. The purpose of incorporating these provisions into the final regulations is to enable applicants and grantees to understand better the requirements of these programs without having to refer to additional documents.

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

Dated: April 3, 1980.

William L. Smith,

Commissioner of Education.

(Catalog of Federal Domestic Assistance Numbers 13.570, Instructional Materials and School Library Resources; 13.571, Improvement in Local Educational Practice Program; 13.577, Guidance, Counseling, and Testing Program)

Accordingly, the Commissioner deletes 45 CFR Parts 134a and 134b, and revises Part 134 to read as follows:

PART 134a—[Deleted]

PART 134b—[Deleted]

PART 134—GRANTS TO STATE EDUCATIONAL AGENCIES FOR EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

Subpart A—General

Sec.

134.1 Educational improvement, resources, and support.
134.2 Eligibility.
134.3 Regulations that apply to title IV.
134.4 Definitions as used in this part.

Subpart B—How a State Applies for a Grant

134.10 Documents the State must submit to get a grant.
134.11 Conditions the State must meet before submitting a plan—State advisory council.
134.12 Conditions the State must meet before submitting a plan—maintenance of effort.

Subpart C—How a Grant is Made to a State

134.20 Determination of the total amount available for a State grant.
134.21 Reallocation of excess funds.

Subpart D—How To Apply to the State for a Subgrant

134.30 Documents the applicant must submit to get a subgrant.
134.31 Provisions required in the documents.

Subpart E—How a Subgrant Is Made to an Applicant

134.40 Determination of the amount of the subgrant.
134.41 Multi-year Part C projects.
134.42 Reallocation.

Subpart F—Conditions That Must Be Met by the State and Its Subgrantees

Sec.

134.50 Use of funds—SEA's
134.51 Use of funds—Insular Areas.
134.52 Use of funds—Departments of Defense and the Interior.
134.53 Use of Part C funds—SEA's, Insular Areas, and Departments of Defense and the Interior.
134.54 Use of Part C funds—supplementing part C subgrants.
134.55 Use of Part D funds—SEA's, Insular Areas, and Departments of Defense and the Interior.
134.56 Use of Part B funds—LEA's.
134.57 Use of Part C funds—LEA's.
134.58 Use of Part D funds—LEA's.
134.59 Allowable costs—Part B

Subpart G—Administrative Responsibilities of the State and Its Subgrantees

134.60 Project application review and approval by the State.
134.61 Monitoring and enforcement by the State.
134.62 Evaluation by the State.
134.63 Evaluation by the State advisory council.
134.64 Standards for Part B.
134.65 Consultation procedures—Part B.
134.66 Control of instructional equipment and materials.
134.67 Audit resolution.
134.68 Part C projects for the education of handicapped children; requirements under Part B of the Education of the Handicapped Act (EHA).

Subpart H—Participation of Children Enrolled in Private Schools

134.70 Responsibilities.
134.71 Consultation with representatives of private school students.
134.72 Needs; number of students; types of services.
134.73 Benefits.
134.74 Expenditures.
134.75 Separate classes.
134.76 Funds not to benefit a private school.
134.77 Administrative control.
134.78 Public employees.
134.79 Separate compliance.

Subpart I—Section 406 Compliance Procedures

134.80 Complaint procedure.
134.81 Waiver of section 406.
134.82 By-pass.

Subpart J—Other Compliance Procedures Used by the Office of Education

134.90 Waivers of maintenance of effort.
134.91 Maintenance of effort waiver procedures.
134.92 Effect of waiver of maintenance of effort.

Appendix A—State Plan
Appendix B—Amendments to State Plan
Appendix C—Comments and Responses to the Notice of Proposed Rulemaking

Authority: 20 U.S.C. 3081 et seq., 92 Stat. 2229.

Subpart A—General

§ 134.1 Educational improvement, resources, and support.

These regulations apply to the following programs authorized by Title IV of the Elementary and Secondary Education Act:

(a) Instructional Materials and School Library Resources (Part B). The basic purpose of Part B is to assist local educational agencies (LEAs) in the acquisition of necessary books, educational materials, library resources, and instructional equipment.

(b) Improvement in Local Educational Practice (Part C). The basic purpose of Part C is to strengthen the quality of elementary and secondary education through support of locally initiated projects and activities designed to improve educational practices.

(c) Guidance, Counseling, and Testing (Part D). The basic purpose of Part D is to strengthen and expand guidance, counseling, and testing programs in elementary and secondary schools.

(Sec. 401 of the Act; 20 U.S.C. 3081)

§ 134.2 Eligibility.

Title IV is a State-administered program to benefit public and private elementary and secondary school children. A State may apply for funds under Title IV by submitting to the Commissioner a plan describing its programs for Parts B, C, and D. Following approval of the plan, the Commissioner awards grants for these programs to the State educational agency (SEA). The SEA then awards subgrants to an LEA—or groups of LEAs—for these programs on the basis of written project applications submitted to the SEA. The Department of the Interior may apply for title IV funds for children and teachers in elementary and secondary schools it operates for Indian children. The Department of Defense may apply for Title IV funds for children and teachers in schools it operates for overseas dependents.

(Sections 403 and 404 of the Act; 20 U.S.C. 3083 and 3084)

§ 134.3 Regulations that apply to title IV.

(a) The following regulations apply to the title IV program—

(1) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100b (State-administered Programs), except §§ 100b.650–100b.662 (Participation of Students Enrolled in Private Schools);

(2) EDGAR 45 CFR Part 100c, (Definitions);

(3) The regulations in this part.

(b) If an SEA administers title IV under the provision of Title V, Part A of the Elementary and Secondary Education Act (ESEA), the regulations in 45 CFR Part 120 also apply.

(Sec. 401 of the Act; 20 U.S.C. 3081)

§ 134.4 Definitions as used in this part.

"Academic subjects" means, but is not limited to, the following elementary and secondary school subjects: the arts, civics, economics, English, geography, history, the humanities, industrial arts, mathematics, foreign languages, reading, and science.

(Sec. 421 of the Act; 20 U.S.C. 3101)

"Act" means Title IV of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561) and Technical Amendments Related to the Education Amendments of 1978 (Pub. L. 96–46).

(Sec. 401 of the Act; 20 U.S.C. 3081)

"Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or have specific learning disabilities, and who because of those impairments need special education and related services. The specific terms used in this definition are defined in 45 CFR 121a.5.

(Sec. 432(c) of the Act; 20 U.S.C. 3112(c))

"Instructional equipment" means equipment that is appropriate for use in providing education in academic subjects in elementary and secondary schools and that is used to teach or learn an academic subject. The eligibility of instructional equipment is determined by its intended use and its direct relationship to instruction in an academic subject. Depending upon use, typical examples of instructional equipment include—

(a) Laboratory or other special equipment that contributes directly to the objectives of an instructional program;

(b) Electronic or mechanical audiovisual equipment, such as audio and computer devices and TV monitors;

(c) Equipment for the storage and protection of instructional materials and equipment; and

(d) Equipment for the maintenance and repair of audiovisual materials.

The term does not include general purpose classroom or library furniture, shelving, stoves, refrigerators, bleacher seats, equipment for staff offices, or other equipment not directly related to instruction in academic subjects. The term, however, does include musical instruments and physical education equipment if used for instructional purposes in music or physical education classes in the school's regular instructional program.

(Sec. 421 of the Act; 20 U.S.C. 3101)

"Instructional materials" means school library resources, textbooks, realia, raw materials for the preparation of instructional resources, and all printed and published materials that are suitable for providing instruction in elementary and secondary schools. Instructional materials are, with reasonable care, expected to last more than one year. The term does not include furniture, supplies consumed in the instructional process (e.g., paper, pencils, chalk, chemicals), or instructional equipment.

(Sec. 421 of the Act; 20 U.S.C. 3101)

"Insular area" means Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Sec. 401 of the Act; 20 U.S.C. 3081)

"Part B" means the Instructional Materials and School Library Resources Program.

(Sec. 421 of the Act; 20 U.S.C. 3101)

"Part C" means the Improvement in Local Educational Practice Program.

(Sec. 431 of the Act; 20 U.S.C. 3111)

"Part D" means the Guidance, Counseling, and Testing Program.

(Sec. 441 of the Act; 20 U.S.C. 3121)

"Preceding fiscal year" means the twelve-month fiscal period most commonly used in the State for official reporting purposes prior to the beginning of the Federal fiscal year for which funds are available.

(Sec. 404(a)(7) of the Act; 20 U.S.C. 3084(a)(7))

"Private school" means a nonprofit elementary or secondary school that is operated or controlled by an agency, organization, or institution that is not under Federal or public supervision or control.

(Sec. 406(a)(1) of the Act; 20 U.S.C. 3086(a)(1))

"Realia" means artifacts, dioramas, games, models, and educational toys.

(Sec. 401 of the Act; 20 U.S.C. 3081(a)(1))

"School library resources" means printed and published materials that are cataloged or organized for the instructional use of elementary and secondary school children and teachers. The term includes books, periodicals, documents, pamphlets, reproductions,

pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, processed slides, transparencies, films, filmstrips, video tapes, or any other printed or audiovisual materials of a similar nature available now or in the future.

(Sec. 421(1) of the Act; 20 U.S.C. 3101(1))

"Second preceding fiscal year" means the second twelve-month fiscal period most commonly used in a State for official reporting purposes prior to the Federal fiscal year for which funds are available.

(Sec. 404(a)(7) of the Act; 20 U.S.C. 3084(a)(7))

"Strengthening State Educational Agency (SEA) Management" refers to the program authorized by title V, part B of the Act.

(Sec. 521 of title V of the Act; 20 U.S.C. 3161)

"Testing" means the use of tests to measure abilities, educational achievements, interests, or aptitudes pertaining to an individual's educational or career development.

(Sec. 441(a) of the Act; 20 U.S.C. 3121(a))

"Textbook" means a book, reusable workbook, or manual, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students, a copy of which is expected to be available for the individual use of each student in the class or group.

(Sec. 421(1) of the Act; 20 U.S.C. 3101(1))

Subpart B—How a State Applies for a Grant

§ 134.10 Documents the State must submit to get a grant.

(a) To receive a grant a State shall submit to, or have on file with, the Commissioner—

(1) A general application that in the opinion of the Commissioner satisfies the single State application requirements of title V of ESEA (sec. 501) and 45 CFR part 120, or of section 435 of the General Education Provisions Act (GEPA), whichever applies; and

(2) A State plan that describes the purposes for which the funds applied for will be spent. The State plan must be detailed enough to allow the Commissioner to determine whether it satisfies the requirements of the Act and these regulations. The State shall include in its plan the specific assurances and items of information listed in the appendix to this part.

(b) To receive a grant, the Department of the Interior or Department of Defense shall submit to the Commissioner a program plan that describes the purposes for which the funds will be used. The program plan—

(1) Need not be submitted more often than once every three years; and

(2) Must contain the assurances and information required by the Commissioner.

(Secs. 403(c) and 404(a) of the Act; 20 U.S.C. 3083(c) and 3084(a))

§ 134.11 Conditions the State must meet before submitting a plan—State Advisory council.

A State that desires to receive title IV funds shall establish a State advisory council (SAC).

(a) The SAC shall be broadly representative of the cultural and educational resources of the State, including—

(1) Teachers, principals, superintendents, and other professional employees of LEAs and private schools;

(2) Teachers from institutions of higher education;

(3) School librarians, personnel involved in operating media programs in local schools, and guidance counselors;

(4) Individuals from fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantages, and limited English proficiency or because they are gifted or talented, and of professional competence in guidance and counseling; and

(5) Parents, students, and other interested members of the public.

(b) A single member of the council may represent more than one of these resources.

(c) The State's annual certification of council membership must provide the name of each member of the council, including its chairperson, as well as the specific resource or resources each member represents. In addition, the State shall retain, and furnish to the Commissioner upon request, a description of the qualifications of each council member.

(d) The Commissioner notifies the SEA in writing when the certification has been accepted.

(Sec. 404(b) of the Act; 20 U.S.C. 3084(b))

§ 134.12 Conditions the State must meet before submitting a plan—maintenance of effort.

(a) *General requirements.* (1) To receive Part B funds, Part C funds to conduct the Strengthening SEA Management program, or Part D funds, a State shall have expended during the preceding fiscal year for the purposes of each of these programs an amount of non-Federal funds that at least equals the amount of non-Federal funds it expended for the purposes of each of these programs during the second preceding fiscal year.

(2) The comparison of expenditures for the two years may be made on the basis of—

(i) Either the aggregate non-Federal expenditures for each of these programs made by the State, its LEAs, and the private schools in the State; or

(ii) The aggregate per student expenditures of the State, its LEAs, and private schools.

(b) *Aggregate expenditures.* The State may measure aggregate non-Federal expenditures for programs described in Part B, Part D, or in Title V, Part B, respectively, by either of the following methods:

(1) Totalling the expenditures made by the State, all its LEAs, and the private schools in the State that enroll students who will participate during the fiscal year for which funds are available or

(2) Totalling the expenditures made by the State, its LEAs that will participate in the fiscal year for which funds are available, and the private schools in the State that enroll students who will particpate in the fiscal year for which funds are available.

(c) *Aggregate per student expenditures.* The State may measure aggregate per student non-Federal expenditures for programs described in Part B, Part D, or in Title V, Part B, respectively, by either of the following methods:

(1) Dividing the aggregate expenditures computed under paragraph (b)(1) of this section by the total number of students in average daily attendance (ADA)—or any other basis commonly and consistently used in a State from year to year—in all the public schools in the State and in private schools that enroll students who will particpate in the fiscal year for which funds are available; or

(2) Dividing the aggregate expenditures computed under paragraph (b)(2) of this section by the total number of students in ADA—or on any other basis commonly and consistently used in the State from year to year—in public schools in LEAs that will participate in the fiscal year for which funds are available and in private schools that enroll students who will participate in the fiscal year for which funds are available.

(d) *Averaging expenditures.* (1) If non-Federal expenditures for programs described in Part B, Part D, or in Title V, Part B, depend upon a State or local appropriation that is not an annual appropriation, the State may average its

non-Federal expenditures for those programs over the number of fiscal years for which the appropriation was made.

(2) A State that chooses to average its expenditures in this way shall continue to use this method for computing maintenance of effort for each fiscal year for which the State or local appropriation was made.

(3) A State that does not average its expenditures shall attribute all expenditures to the fiscal year in which they were incurred.

(e) *State's authority to exclude LEAs or children enrolled in private schools.* A State, by rule, may exclude from participation in Parts B or D—

(1) An LEA that has failed to maintain its non-Federal expenditures, if the Commissioner declines to waive the State's requirement to maintain its expenditures, and if that LEA's failure to maintain its expenditures would prevent the State from complying with paragraph (a) of this section;

(2) Students enrolled in a private school that has failed to maintain its expenditures, if the Commissioner declines to waive the State's requirement to maintain its expenditures, and if that private school's failure to maintain its expenditures would prevent the State from complying with paragraph (a) of this section; or

(3) An LEA, or students enrolled in a private school, that fails to submit data that the State requires to determine compliance with this section.

(f) *Collecting and maintaining data.* The SEA shall collect and maintain data—including data from private schools—that verify the State's compliance with this section or §§ 134.90–134.92 of these regulations. The State shall make these data available to the Commissioner upon request.

(g) *Separate compliance.* The Commissioner determines whether a State is complying with the maintenance of effort requirement separately for the programs authorized by Part B, Part D, and Title V, Part B of the Act.

(Sec. 404(a)(7) of the Act and Sec. 431(A) of GEPA; 20 U.S.C. 3084(a)(7) and 1232–1)

Subpart C—How a Grant Is Made to a State

§ 134.20 Determination of the total amount available for a State grant.

The Commissioner determines for each fiscal year the total amount of Parts B, C, and D funds for which a State, an insular area, the Department of Defense and the Department of the Interior may apply.

(a) In determining the amounts for which a State—other than an insular area—may apply, the Commissioner allots to each State an amount which bears the same ratio to the amounts appropriated, respectively, for Parts B, C, and D as the number of children aged five to seventeen, inclusive, in the State bears to the number of those children in all the States.

(b) In determining the amount for which an insular area may apply, the Commissioner considers the number of children enrolled in the elementary and secondary schools in that insular area.

(c) In determining the amount for which the Department of Defense and the Department of the Interior may each apply, the Commissioner considers the number of children enrolled in elementary and secondary schools operated by that department.

(Sec. 403 of the Act; 20 U.S.C. 3083)

§ 134.21 Reallocation of excess funds.

The Commissioner may, for any fiscal year, determine that the amount of Parts B, C, or D funds made available to a State—other than an insular area—exceeds the amount of funds that the State requires to carry out projects under that part for that fiscal year. The Commissioner may then reallocate these excess funds.

(Sec. 403(b) of the Act; 20 U.S.C. 3083(b))

Subpart D—How To Apply to the State for a Subgrant

§ 134.30 Documents the applicant must submit to get a subgrant.

(a) To receive a subgrant of Part B, C, or D funds, an LEA shall submit to, or have on file with, the SEA—

(1) A general application that satisfies the single LEA application requirements of title V of ESEA (sec. 502) and 45 CFR Part 120 or of GEPA (sec. 436), whichever applies; and

(2) A project application, in the form required by the SEA, that describes the purposes for which the funds will be spent. The LEA shall include in its project application sufficient detail to enable the SEA to determine whether the application satisfies the requirements of the Act and these regulations.

(b) To receive a subgrant of Part B or D funds, an LEA need not submit a project application more often than once every three years. However, an SEA may require an LEA to supplement annually its project application for Part B or D funds with the information it needs to determine whether the LEA is complying with the requirements of the Act, including:

(1) Enrollment and expenditure data needed by the SEA to determine if the State is maintaining its fiscal effort,

(2) Information needed by the SEA to determine whether the LEA is complying with the requirements dealing with the participation of private school children; and

(3) Information pertaining to any material changes in project objectives or use of funds.

(c)(1) An SEA may approve an LEA application for a multi-year part C project—subject to the availability of funds—in accordance with § 134.41 (*Multi-year part C projects*).

(2) Each year after the first year of the project, the LEA shall supplement its project application with the information the SEA requires to determine whether the LEA is making satisfactory progress toward meeting the objective of its project, and is complying with the requirements of the Act and these regulations.

(d) The Department of Defense, the Department of the Interior, or an insular area may designate administrative units to submit project applications that are consistent with the requirements of this section.

(Sec. 403(c), 404(a), and 432(a) of the Act; 20 U.S.C. 3083(c), 3084(a), and 3112(a))

§ 134.31 Provisions required in the documents.

(a)(1) In each project application it submits to the SEA, an LEA shall clearly demonstrate that it has complied with § 134.71 (*Consultation with representatives of private school students*).

(2) In each project application it submits to the Department of Defense, the Department of the Interior, or insular area, an administrative unit shall clearly demonstrate that it has complied with § 134.71.

(b) Each project application submitted by an LEA to an SEA—or by an administrative unit to an insular area or department—must include—

(1) The number of public and private school children enrolled in the schools located within its boundaries;

(2) The number of public and private school children to be served by the project;

(3) A description of how the public and private school children selected to participate were chosen;

(4) A description of when and where public and private school children will be served by the project;

(5) An explanation of any differences noted in paragraph (4) of this section;

(6) An explanation of any adjustments made in per student expenditures under § 134.74 (*Expenditures*); and

(7) If required by the SEA, the names and addresses of all private schools within its boundaries.

(c) An SEA may require an LEA—or an insular area or department may require an administrative unit—to provide the information required by paragraphs (a) and (b) of this section for each fiscal year during which the LEA or administrative unit participates in Parts B, C, or D of the Act.

(Secs. 406(a), 406(b), and 432(d) of the Act; 20 U.S.C. 3086(a), 3086(b), and 3112(d))

Subpart E—How a Subgrant is Made to an Applicant

§ 134.40 Determination of the amount of the subgrant.

(a)(1) An SEA shall make a subgrant to an LEA of Part B funds based on enrollments in public and private schools within the school districts of those agencies, adjusted to provide higher per pupil allocations to—

(i) LEAs whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under Title I of this Act) is no greater than the average per pupil expenditure in the State; and

(ii) LEAs which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language.

(2) For the purpose of computing the amount of a subgrant to an LEA selected by the SEA because of high tax effort or because of a large number or percentage of high cost children, a higher per pupil allocation means an additional per pupil amount that is at least equal to the per pupil amount the SEA awards to each LEA based on enrollment.

(3) An SEA may decline to award higher per pupil allocations to LEAs because of high tax effort only if it provides enough information in its State plan to allow the Commissioner to determine that—

(i) No LEA in the State is making a substantially greater than average local tax effort; or

(ii) If any LEA in the State is making a substantially greater than average local tax effort, its per pupil expenditures exceed the State average per pupil expenditure.

Example. Assume that a State received $2,112,500 in Part B funds and that the maximum administrative allowance for Title IV is $225,000. The State chooses to use $112,500 to administer the Part B program. This amount ($112,500) is subtracted from the Part B allocation ($2,112,500) leaving $2,000,000 for LEA program funds. The State has a total enrollment of 500,000 public and private school children, and has identified as "high cost" children, those in (1) rural LEAs, and (2) bilingual children in LEAs whose enrollment is more than 10 percent bilingual. Allotting 50 percent of the $2,000,000 total ($1,000,000) on the basis of enrollment (500,000 children) will generate $2.00 to be allotted for benefits for each child in the State. The remaining $1,000,000 might be divided by allotting 20 percent of the total grant ($400,000) to 200,000 children in LEAs that are eligible under the high tax effort factor, or an additional $2.00 per child (as much as is received under the enrollment factor). From the remaining 30 percent of the grant, the State might allocate $400,000 to 200,000 children enrolled in rural LEAs (that is, an additional $2.00 per child) and $200,000 to LEAs with 100,000 bilingual children (again, $2.00 additional per child). Note that this formula provides for the cumulation of higher per pupil allocations. For example, a child enrolled in an LEA selected under the high tax effort factor as well as one high cost factor would generate $6.00 per child.

Example of Formula Meeting Proposed Minimum Requirement

Total Part B Allotment—$2,112,500; State Administration—$112,500

	Enrollment	High tax effort	High cost	
			Rural	Bilingual
Percent program funds	50	20	20	10
Program funds ($)	1,000,000	400,000	400,000	200,000
Number of children	500,000	200,000	200,000	100,000
Amount per child ($)	2.00	2.00	2.00	2.00
Number of LEA's	170	65	120	60

(b) An SEA shall make a subgrant of Part C funds to an LEA on an equitable, competitive basis.

(c) An SEA shall make a subgrant of Part D funds to an LEA in accordance with the distribution procedures described in the State plan. These funds may be allocated on the basis of a formula, such as student enrollment, or an equitable competition.

(Secs. 404(a)(5), 422(a), and 441(a) of the Act; 20 U.S.C. 3084(a)(5), 3102(a), and 3121(a))

§ 134.41 Multi-year Part C projects.

(a) Subject to the availability of funds, an SEA may make a commitment to an LEA to fund a particular project with Part C funds for more than one fiscal year, but for not more than five fiscal years, excluding the period during which the LEA received a planning grant for the project. A subgrant to plan a project may be for no more than one fiscal year.

(b) Before the SEA makes a commitment to multi-year funding, it shall determine that the LEA intends to adopt the project activities, if successful, as part of its regular educational program when Part C funds are no longer provided. For the purpose of this requirement, no activity that is supported by funds for which the LEA must compete against other LEAs or similar applicants may be considered part of its regular educational program.

(c) If an SEA makes a subgrant to an LEA for a particular project that has been supported by Part C funds during three preceding years, the SEA shall, in comparison to the amount of the subgrant for the third fiscal year, reduce the amount of the subgrant substantially. Similarly, if an SEA makes a subgrant of Part C funds to an LEA for a particular project for a fifth fiscal year, the SEA shall, in comparison to the amount of the subgrant for the fourth fiscal year, reduce the amount of the subgrant substantially.

(d) An LEA shall include the following information in its application for part C funds for the fourth or fifth year of a particular project:

(1) How the LEA will compensate for the reduction of Part C funds in the fourth and fifth year of the project without reducing the project's scope and quality.

(2) How the LEA will incorporate the activities of the project into its regular educational program after Part C funds are no longer provided.

(3) How the LEA will continue to provide with Federal funds equitable benefits to private school children who participate in the project.

(e) For the purpose of applying the requirements of this section to multi-year Part C projects already in operation for three years prior to the effective date of these regulations, the SEA may consider the subgrant it makes to an LEA for school year 1979–80 to continue this type of multi-year Part C project as though it were for the third year of that project.

(Secs. 406(a) and 432(a) of the Act; 20 U.S.C. 3086(a) and 3112(a))

§ 134.42 Reallocation.

(a) An SEA may, from time to time, reallocate Part B funds from an LEA that has chosen not to participate or does not choose to expend the full amount made available to it. A reallocation of funds must be consistent with the requirements for the participation of private school children and with the procedure described in the State plan

for determining the amount of subgrants for Part B.

(b) If an SEA makes subgrants of Part D funds available to LEAs on the basis of a formula, such as student enrollment, it may similarly reallocate excess Part D funds.

(Secs. 422(a) and 441(a) of the Act; 20 U.S.C. 3102(a) and 3121(a))

Subpart F—Conditions That Must Be Met by the State and Its Subgrantees

§ 134.50 Use of funds—SEAs.

(a) In a fiscal year in which the provisions of Title V of ESEA dealing with the conditions for appropriations of State administrative funds are not met—

(1)(i) A State—other than an insular area—may use to administer its State plan the larger of the following amounts—

(A) Five (5) percent of the Title IV funds received for that fiscal year, excluding any funds used for the purpose of the State's strengthening program, or

(B) $225,000.

(ii) The State shall then make available to LEAs—for purposes described in paragraph (a)(1) of this section (iii)—the remaining amount of its total Title IV allotment, after any reallocation by the Commissioner. However, the SEA shall exclude from the amount made available to LEAs any amount of Part C funds to be expended for the strengthening SEA Management program or of Part D funds for State leadership in guidance, counseling, and testing.

(iii) An LEA shall use the amount made available under paragraph (a)(1)(B)(ii) of this section only to acquire instructional materials and equipment under Part B; improve local educational practices under Part C; and conduct guidance, counseling, and testing programs under Part D.

(b) In a fiscal year in which the provisions of Title V of ESEA dealing with the conditions for appropriations of State administrative funds are met, all the above requirements apply except those pertaining to State administrative funds.

(Secs. 403(a), 403(c), 404(a)(8), and 441(b) of the Act; 20 U.S.C. 3083(a), 3083(c), 3084(a)(8), and 3121(b))

§ 134.51 Use of funds—Insular Areas.

(a) In any fiscal year an insular area may use no more than $75,000 to administer its State plan.

(b) The insular area shall then use for the purposes described in paragraph (c) of this section, the remaining amount of its total Title IV allotment. However, the insular area shall exclude from the amount available for paragraph (c) of this section any amount to be expended for the Strengthening SEA Management program or for State leadership in guidance, counseling, and testing.

(c) The insular area shall use the amount made available under paragraph (b) of this section only to acquire instructional materials and equipment under Part B; improve local educational practices under Part C; and conduct guidance, counseling, and testing programs under Part D.

(d) Each insular area shall use a substantial amount of its Part B grant and its Part D grant, if distributed on a formula basis, to benefit children who have the greatest educational need.

(Secs. 403(a), 403(c), 404(a)(8), and 441(b) of the Act; 20 U.S.C. 3083(a), 3083(c), 3084(a)(8), and 3121(b))

§ 134.52 Use of Funds—Departments of Defense and the Interior.

(a) In any fiscal year the Department of the Interior may use no more than $75,000 to administer its program plan.

(b) The department shall then use the remaining amount of its total Title IV allotment only to acquire instructional materials and equipment under Part B; improve local educational practices under Part C; and conduct guidance, counseling, and testing programs under Part D.

(c) The Department of Defense and the Department of the Interior shall use a substantial amount of its Part B grant and its Part D grant, if distributed on a formula basis, to benefit children who have the greatest educational need.

(Sec. 403(c) of the Act; 20 U.S.C. 3083(c))

§ 134.53 Use of Part C funds—SEAs, Insular Areas, and Departments of Defense and the Interior.

(a) In a fiscal year in which the provisions of Title V of ESEA dealing with the conditions for appropriations for the Strengthening SEA Management program are not met, a State—including an insular area—may use the larger of the following amounts—

(1) Fifteen (15) percent of the Part C funds received for that fiscal year; or

(2) The amount it received for Strengthening State and Local Educational Agencies for fiscal year 1973 to conduct the Strengthening SEA Management program as described in the approved State plan.

(b) In any fiscal year the Department of Defense and the Department of the Interior may not use Title IV funds for the Strengthening SEA Management program.

(c) In awarding subgrants of Part C funds, an SEA shall comply with—

(1) Section 431(b)(2) of the Act which requires that in any fiscal year in which the State receives more Part C funds than it received in fiscal year 1979, at least 50 percent of the additional amount must be used for innovatives and improved compensatory education projects;

(2) Section 432(b)(1) and (2) of the Act which require that—

(i) In fiscal year 1980 any State that receives mor Part C funds than it received in fiscal year 1979 must allocate at least 5 percent of the additional amount for projects to improve school management;

(ii) In fiscal year 1981 and each succeeding fiscal year any State that receives more Part C funds than it received in fiscal year 1979 must allocate at least 10 percent of the additional amount for projects to improve school management;

(iii) The SEA may not approve a project to improve school management unless the LEA has developed its project application in consultation with a committee composed of administrators, teachers, other staff at the school, and parents whose children attend the school, and that committee has approved that project application.

(3) Section 432(c) of the Act which requires the State to expend no less than 15 percent of its Part C grant—excluding funds available for the Strengthening SEA Management program—for special projects for handicapped children. The special projects for handicapped children must be designed to meet the special educational needs of those children.

(d) In judging a competition among LEAs for Part C funds, an SEA may take into consideration which of the program purposes or activities an LEA seeks to support.

(Secs. 403(c), 404(a)(9), 431, 432(b), and 432(c) of the Act; 20 U.S.C. 3083(c), 3084(a)(9), 3111, 3112(b), and 3112(c))

§ 134.54 Use of Part C funds—supplementing Part C subgrants.

(a) An SEA may reserve a small amount of Part C funds for the purpose of supplementing its subgrants for Part C projects.

(b) Alternatively, if—after awarding all of its Part C funds for a fiscal year for Part C subgrants—the SEA determines that not all of those funds will be obligated by one or more LEAs during that grant period, the SEA may recover those funds and use them to supplement other Part C projects.

(c) An SEA that intends to supplement Part C projects in any way shall include in its State plan a description of the process and the competitive criteria it

will use in considering an LEA's request for supplemental funding.

(d) If an SEA reserves funds for supplementation, it shall include the amount in its State plan.

(e) An SEA may not award supplementary Part C funds to enable an LEA to conduct activities beyond the scope of that LEA's approved application.

(Sec. 404(a)(5) of the Act; 20 U.S.C. 3064(a)(5))

§ 134.55 Use of Part D funds—SEA, Insular Areas, and Departments of Defense and the Interior.

(a) An SEA may use no more that 7½ percent of its Part D grant for any fiscal year for State leadership and supervisory activities.

(b) The Departments of Defense and the Interior may not use Part D funds for State leadership and supervisory activities.

(c) If Part D funds are distributed on a competitive basis, the criteria for selection must be based on the quality of proposed projects and not the purposes for which the funds will be used.

(Secs. 441 and 442 of the Act; 20 U.S.C. 3121 and 3122)

§ 134.56 Use of Part B funds—LEAs.

(a) Subject to the requirements dealing with the participation of private school children, and LEA that receives a subgrant of Part B funds shall have complete discretion in selecting which of the program purposes it wishes to support with those funds.

(b) Subject to the requirements dealing with the participation of private school children, an LEA may, when acquiring instructional materials and equipment with Part B funds, concentrate upon meeting the educational needs of children in one or more of the schools within its boundaries.

(c) When selecting instructional materials and equipment, an LEA that receives higher per pupil allocations of Part B funds due to the presence of a large number or percentage of children whose education imposes a higher than average per pupil cost shall consider the special educational needs of those children.

(d) The LEA shall make available to all children attending a school, all the instructional materials and equipment acquired with Part B funds and placed in that school.

(Secs. 421 and 422 of the Act; 20 U.S.C. 3101 and 3102)

§ 134.57 Use of Part C funds—LEAs.

(a) An LEA that receives a subgrant of Part C funds shall use those funds primarily for activities that will improve its own educational practices. This means that an LEA that receives a subgrant of Part C funds—

(1) May not transmit those funds to another LEA to pay the costs of the other LEA's project unless the LEA that receives the subgrant is acting as the agent for a consortium (of which it is a member) whose joint project application for Part C funds has been approved by the SEA;

(2) May not use those funds to disseminate training materials or project information to the representatives of children enrolled in schools outside the LEA, except in response to a specific request;

(3) Shall give priority to requests for training received from the representatives of children enrolled in schools within its own boundaries;

(4) May not use those funds to provide training to the representatives of school children enrolled in a school located in another State.

(b) In connection with the educational practices it has either developed or adopted with Part C funds, an LEA may, in response to a specific request, use Part C funds within the State to—

(1) Disseminate training materials and project information—including evaluation results—to representatives of children enrolled in public and private schools outside its boundaries;

(2) Provide technical assistance and training to the representatives of children enrolled in public and private schools outside its boundaries; and

(3) Attend meetings to describe its project to representatives of children enrolled in public and private schools outside its boundaries.

(c) An LEA may not use Part C funds for the purposes described in paragraph (b) of this section unless the SEA specifically approves. Before approving, the SEA must determine—

(1) That the educational practices developed or adopted by the LEA with Part C funds—

(i) Are successful in that LEA, as shown by data that clearly demonstrate significant improvement of its educational practices;

(ii) Have been installed in the schools within the LEA's boundaries (or are in the process of being installed in accordance with a plan approved by local school authorities) where appropriate and feasible;

(iii) Are being adequately supported, irrespective of the source of funds, for the benefit of children enrolled in public and private schools within the LEA boundaries; and

(2) That the amount of Part C funds to be used for the purposes described in paragraph (a) of this section is reasonable considering the extent to which—

(i) The educational practices developed or adopted by the LEA with Part C funds have already been installed in the schools within the LEA's boundaries;

(ii) There is a demand for demonstrations of the educational practices elsewhere in the State.

(d) In any fiscal year the amount of Part C funds an LEA may use under paragraph (b) of this section to demonstrate educational practices outside its boundaries may not exceed the amount of funds, irrespective of the source, the LEA uses to support those educational practices within its boundaries.

Example: To *operate* the program for public and private school children within its boundaries the LEA determines that the following amounts will be needed:

ESEA Title IV-C	$2,000
Other Federal	3,000
LEA	1,000
Total	6,000

To *demonstrate* the program outside its boundaries for the benefit of public and private school children, the maximum amount available is: $6,000. The maximum amount of the Title IV-C grant would be: $8,000.

Note.—If this grant is for the fourth year of funding, the total amount would have to be substantially less than the ESEA Title IV-C grant for the third year. Likewise, the grant for the fifth year would have to be substantially less than that for the fourth year.

(e) An SEA shall not make a subgrant of Part C funds to a consortium of LEAs or to an LEA that contains more than one school district within its boundaries to disseminate information or provide technical assistance concerning educational practices unless those uses of Part C funds are consistent with the requirements of this section. For example, Part C funds may not be used by one LEA within a consortium to disseminate information or provide technical assistance concerning educational practices that LEA has developed or adopted with Part C funds to another member of the consortium unless the SEA determines that the requirements of paragraph (c) of this section are met.

(Sec. 431(a) of the Act; 20 U.S.C. 3111(a))

§ 134.58 Use of Part D funds—LEAs.

Subject to the requirements dealing with the participation of private school children, an LEA that receives a subgrant of Part D funds shall have complete discretion in selecting which of the Part D program purposes it wishes to support with those funds.

(Sec. 442 of the Act; 20 U.S.C. 3122)

§ 134.59 Allowable costs—Part B.

(a) Expenditures of Part B funds for instructional equipment may include the cost of raw or processed materials, or component parts to be made into finished products, as well as the cost of making or assembling the instructional equipment.

(b) No administrative costs, except those properly incurred by SEAs, are allowable under Part B of the Act unless the SEA approves a special indirect cost rate for use by LEAs.

(Secs. 401 and 421 of the Act; 20 U.S.C. 3081 and 3101)

Subpart G—Administrative Responsibilities of the State and Its Subgrantees

§ 134.60 Project application review and approval by the State.

(a) An SEA shall review and approve the project applications of LEAs:

(1) According to the requirements of section 503 of Title V of ESEA, if applicable;

(2) In a manner consistent with its assurances under 45 CFR 100b.102(e) of EDGAR; and

(3) According to its State plan.

(b) The Department of Defense, the Department of the Interior, or an insular area shall review the project applications of its administrative units, if applicable. The relevant Department or the insular area may approve only those applications that comply with the requirements of the Act and these regulations, as well as with the Department's program plan or the insular area's State plan.

(Sec. 404(a) of the Act; 20 U.S.C. 3084(a))

§ 134.61 Monitoring and enforcement by the State.

In each fiscal year, the SEA shall carry out a plan for monitoring and enforcing compliance by LEAs with Federal requirements according to the following standards:

(a) The purpose of monitoring shall be—

(1) To review federally funded projects to determine whether a subgrantee is complying with applicable statutes, regulations, and grant provisions; and

(2) To review project purposes, activities, and results.

(b) An SEA shall—

(1) Take into account the size, scope, and purpose of the project in determining the frequency of on-site visits;

(2) Visit each multi-year Part C project at least once during the duration of the project or the applicable State plan; and

(3) Visit a sample of all Title IV projects annually to insure the integrity of the Title IV program.

(c)(1) Within 60 days of a monitoring visit, the SEA shall provide the LEA with a written report that contains the SEA's findings.

(2) If the LEA disagrees with those findings, it may reply in writing to the SEA within 60 days of the SEA's report.

(3) The SEA shall respond in writing to the LEA within 60 days of receiving the LEA's reply.

(d) All monitoring reports, replies, and responses are public documents and shall be made available to the public by both the SEA and LEA.

(Sec. 401 of the Act and Sec. 434 of GEPA; 20 U.S.C. 3081 and 1232c)

§ 134.62 Evaluation by the State.

An SEA shall comply with the evaluation requirements of Title V of ESEA (sec. 501(b)(4)) or of GEPA (sec. 435(b)(4)), whichever applies, and evaluate, at least once every three years, the effectiveness of Parts B, C, and D of the Title IV program in that State. The purposes of the evaluation are to determine—

(a) The extent to which educational needs identified in the State plan are being met by Parts B, C, and D;

(b) The quality and effectiveness of administrative activities undertaken by the SEA under its State plan, such as project application review, technical assistance, dissemination, and project monitoring; and

(c) For Part C projects—

(1) The extent to which the educational priorities identified in the State plan are being improved in participating LEAs;

(2) The extent to which LEAs are incorporating successful practices, originally supported by Part C funds, into their regular educational programs;

(3) The extent to which Part C funds are being used for the various program activities authorized under the Act; and

(4) The extent to which the educational needs that prompted the project are still viewed as important by the LEA when Federal funding concludes.

(Sec. 435(b)(4) of GEPA; 20 U.S.C. 3141(b)(4))

§ 134.63 Evaluation by the State advisory council.

At least every three years the SAC shall evaluate and report—through the SEA to the Commissioner—on the Part B, C, and D programs in that State and on all Title IV projects in the State, including those conducted for children enrolled in nonprofit private elementary and secondary schools. These evaluations must reflect consideration of—

(a) The needs addressed by the Part B, C, and D programs and by the individual LEA projects;

(b) The objectives of the Part B, C, and D programs and of the individual LEA projects;

(c) The extent to which these objectives have been achieved;

(d) The educational improvements that have resulted from the Part B, C, and D programs and from the individual LEA projects; and

(e) In the case of a Part C project, the extent to which the educational practices associated with that project have been incorporated throughout the LEA.

(Secs. 401 and 401(b)(1) of the Act; 20 U.S.C. 3081 and 3084(b)(1))

§ 134.64 Standards for Part B.

A State shall adopt standards to be used by its LEAs—or, in case of an insular area, by its administrative units—in acquiring instructional equipment and materials under Part B of Title IV of the Act. The purpose of these standards shall be to insure that all equipment and materials acquired—

(a) Are of appropriate quality and quantity for instructional use in that LEA or administrative unit; and

(b) Will be used solely for instructional purposes.

(Sec. 421 of the Act; 20 U.S.C. 3101)

§ 134.65 Consultation procedures—Part B.

(a) In determining how Part B funds will be divided among the Part B program purposes, an SEA shall insure that a participating LEA has adopted appropriate procedures to coordinate the selection of instructional equipment and materials with the curricula carried out in that LEA's schools.

(b) These procedures shall include periodic consultation with teachers, librarians, media specialists, and other professional staff in the schools and with representatives of participating private school children. These consultations must take place before decisons are made on the expenditure of Part B funds.

(Sec. 422(b) of the Act; 20 U.S.C. 310(b))

§ 134.66 Control of instructional equipment and materials.

An LEA—or other public agency—that administers a Title IV project shall take whatever steps are necessary to insure that it maintains effective control over instructional equipment and materials acquired with Title IV funds.

(Sec. 406(c) of the Act and Sec. 436(b)(2) of GEPA; 20 U.S.C. 3086(c), 3101, and 1232e(b)(2))

§ 134.67 Audit resolution.

If an SEA administers Title IV under the authority of Part A of Title V of ESEA, the minimum standards for audit resolution contained in 45 CFR Part 120 apply.

(Sec. 509 of the Act; 20 U.S.C. 3149)

§ 134.68 Part C projects for the education of handicapped children; requirements under Part B of the Education of the Handicapped Act (EHA).

(a) An SEA shall ensure that each project for handicapped children that is funded with Title IV, Part C funds—

(1) Is under the general supervision of the persons in the SEA who are responsible for educational programs for handicapped children; and

(2) Meets the SEA's educational standards.

(b) An SEA shall ensure that all Title IV, Part C funds it awards for projects for handicapped children will be used only in a manner consistent with a goal of providing a free appropriate public education for all handicapped children. However, this paragraph does not limit the specific requirements of the Act or these regulations.

(c) Under the withholding provisions of EHA (sec. 616), the Commissioner may withhold Part C funds available for projects for handicapped children if the Commissioner determines that there has been a—

(1) Failure to comply substantially with any provision of sections 612 or 613 of EHA; or

(2) Failure in the administration of the State plan under part B of EHA to comply with—

(i) Any provision of Part B of EHA; or

(ii) Any requirement in the approved application under part B of an LEA or intermediate educational unit.

(d) The regulations for Part B of EHA are in 45 CFR Part 121a.

(Secs. 612(6), 613(a)(2), and 616(a)(2)(B) of EHA; 20 U.S.C. 1412(6), 1413(a)(2) and 1416(a)(2)(B))

Subpart H—Participation of Children Enrolled in Private Schools

§ 134.70 Responsibilities.

(a) *General.* Section 406 of the Act provides that children enrolled in private schools are entitled to participate equitably in the purposes and benefits of the Title IV program. This subpart establishes the rules governing their participation. For the purposes of this subpart and Subpart I the term LEA includes an administrative unit of an insular area.

(b) *SEA responsibilities.* An SEA may not make a subgrant of Title IV funds that does not meet the requirements dealing with the partiicpation of private school children. An SEA shall ensure that each LEA complies with these requirements. If an SEA carries out a Title IV project under §§ 134.73(d) or 134.82(a), it shall comply with these requirements as if it were an LEA.

(c) *LEA responsibilities.* (1) An LEA shall provide children enrolled in the private schools within its boundaries genuine opportunities to participate equitably in Title IV projects. These opportunities shall be consistent with the number and needs of those children.

(2) The LEA shall maintain continuing administrative direction and control over the Title IV funds and property that benefit children enrolled in private schools.

(Sec. 406 of the Act; 20 U.S.C. 3086)

§ 134.71 Consultation with representatives of private school students.

(a) An LEA shall consult with appropriate representatives of the children enrolled in the private schools within its boundaries during all phases of the development and design of the project covered by the application, including consideration of—

(1) Which children will receive benefits under the program;

(2) How the children's needs will be identified;

(3) What benefits will be provided;

(4) How the benefits will be provided; and

(5) How the project will be evaluated.

(b) An LEA shall consult with appropriate representatives of children enrolled in private schools before the LEA makes any decision that affects the opportunities of those children to participate in the project.

(c) The LEA shall give the appropriate representatives a genuine opportunity to express their views regarding each matter subject to the consultation requirements in this section.

(Sec. 406(a) of the Act; 20 U.S.C. 3086(a))

§ 134.72 Needs; number of children; types of services.

An LEA shall determine the following matters on a basis comparable to the one it uses in providing for the participation of children attending public schools:

(a) The needs of children enrolled in the private schools.

(b) The number of those children who will participate in a project.

(c) The benefits the LEA will provide to those children.

(Sec. 406 of the Act; 20 U.S.C. 3086)

§ 134.73 Benefits.

(a) *General.* An LEA that receives a subgrant of Title IV funds shall provide to children enrolled in private schools located within its boundaries secular, neutral, non-ideological benefits that are authorized by Title IV, other than projects for improving school management.

(1) If the LEA determines that it is either unnecessary or not feasible to provide these benefits on the premises of one or more of those private schools, it shall make other arrangements for their provision to those children.

(2) These other arrangements must allow the private school children to participate equitably in the LEA's project.

(b) *Same benefits.* If an LEA concentrates Title IV funds on a particular group, attendance area, or grade or age level, the LEA shall ensure equitable participation by children enrolled in private schools who—

(1) Have the same needs; and

(2) Are in that group, attendance area, or age or grade level.

(c) *Different benefits.* An LEA shall provide Title IV benefits to children enrolled in private schools that are different from the Title IV benefits it provides to children enrolled in public schools if the differences are necessary to meet the needs of the children enrolled in private schools. However, the Title IV benefits for the children enrolled in private schools must be comparable in quality, scope, and opportunity for participation to those provided for children enrolled in public schools.

(d) *Part B benefits.* (1) If no project under Part B of Title IV is carried out for the benefit of children enrolled in public schools within the school district of an LEA, the SEA shall make appropriate arrangements to provide benefits authorized by part B to the children enrolled in private schools.

(2) These arrangements—which may include contracts with nonprofit private agencies or organizations—must provide part B benefits to these children as if they were provided by the LEA within whose district the private schools are located.

(e) *Part C and Part D benefits.* Children enrolled in private schools located within the boundaries of an LEA may receive benefits authorized by Part C or D of title IV only if:

(1) That LEA applied for and received a subgrant; and

(2) Children enrolled in the public schools within the boundaries of that LEA receive, respectively, Part C or D benefits.

(Sec. 406(a) of the Act; 20 U.S.C. 3086(a))

§ 134.74 Expenditures.

(a) Subject to paragraph (b) of this section, and LEA shall spend the same average amount of Title IV funds on a child enrolled in a private school who participates in the Title IV project as a child enrolled in a public school who participates in the project.

(b) The LEA shall spend a different average amount of Title IV funds for a child enrolled in a private school if the costs of meeting the needs of children enrolled in private schools are different from the costs of meeting the needs of children enrolled in the public schools.

(Sec. 406(b) of the Act; 20 U.S.C. 3086(b))

§ 134.75 Separate classes.

An LEA may not use Title IV funds for classes that are organized separately on the basis of school enrollment or the religion of the children if—

(a) The classes are at the same site; and

(b) The classes include children enrolled in public schools and children enrolled in private schools.

(Sec. 406(a) of the Act; 20 U.S.C. 3086(a))

§ 134.76 Funds not to benefit a private school.

(a) An LEA may not use Title IV funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA shall use Title IV funds to meet the specific educational needs of children enrolled in private schools rather than—

(1) The needs of a private school, or

(2) The general needs of the children enrolled in a private school.

(Sec. 406(a) of the Act; 20 U.S.C. 3086(a))

§ 134.77 Administrative control.

(a) An LEA may place the materials or equipment acquired with Title IV funds on the premises of a private school for the period of time needed for the purpose of the project.

(b) An LEA shall insure that the materials or equipment placed on the premises of a private school—

(1) Are used only for the purposes of the Title IV program; and

(2) Can be removed from the private school without remodeling its facilities.

(c) An LEA shall remove the materials or equipment from the premises of a private school if—

(1) The materials or equipment are no longer needed for the purposes of the program or

(2) Removal is necessary to avoid use of the materials or equipment for other than title IV purposes.

(Sec. 406(c)(1) of the Act; 20 U.S.C. 3086(c)(1))

§ 134.78 Public employees.

An LEA may use Part C or D funds to employ personnel to provide services to children enrolled in a private school only—

(a) If the personnel are public employees;

(b) If the services these persons provide are not normally provided by the private school; and

(c) To the extent necessary to provide equitable Part C or D benefits designed for children enrolled in private schools.

(Sec. 406(c)(2) of the Act; 20 U.S.C. 3086(c)(2))

§ 134.79 Separate compliance.

(a) Each SEA and LEA that participates in Title IV shall comply with the requirements of this subpart in connection with each Title IV program—Part B, C, or D—in which it participates.

(b) A determination that an SEA or LEA is not complying with the requirements of this subpart in one part of Title IV has no bearing on whether it is complying with those requirements in connection with another part.

(Sec. 406 of the Act; 20 U.S.C. 3086)

Subpart I—Section 406 Compliance Procedures

§ 134.80 Complaint procedures.

(a) Any person or organization may file with an SEA a written complaint alleging that in one or more Title IV projects children enrolled in private schools are not receiving benefits on an equitable basis. The written complaint must include a detailed statement of the facts upon which the allegation is made.

(b) The SEA shall, within 60 days of its receipt, investigate the complaint and submit to the Commissioner a report stating the nature of the complaint and the actions taken to resolve it. If the SEA believes that one or more LEAs have substantially failed, or are unwilling to provide equitably for children enrolled in private schools, it shall comply with § 134.81(b).

(c) If, after the 60 day period, the SEA, an affected LEA, the person or organization making the complaint, or the Commissioner believes the complaint has not been satisfactorily resolved, the Commissioner may review the matter and take appropriate action. The Commissioner determines when a complaint is finally resolved.

(Sec. 406 of the Act; 20 U.S.C. 3086)

§ 134.81 Waiver of section 406.

(a) The Commissioner waives the requirements of Subpart H if the Commissioner determines that an SEA is prohibited by State law from providing for the equitable participation of children enrolled in private schools. If an SEA believes that it is prohibited by State law from providing equitably for private school children, it shall promptly—

(1) Notify the Commissioner of its belief;

(2) Provide the Commissioner with a written interpretation of State law prepared by the State Attorney General or other appropriate State legal officer;

(3) Certify in its State plan—by amendment, if necessary—that it cannot, under State law, comply with the requirements of section 406 of the Act; and

(4) Refrain from approving any project application until the Commissioner either—

(i) Waives the requirements of Subpart H for that State; or

(ii) Determines that, despite the provisions of State law, the SEA is able to comply with the requirements of section 406 of the Act.

(b) The Commissioner may waive the requirements of Subpart H if the Commissioner determines that an SEA or LEA has either substantially failed or is unwilling to provide for the equitable participation of children enrolled in private schools. If, at any time, an SEA believes that an LEA has substantially failed, or is unwilling, to provide equitably for private school children, the SEA shall promptly—

(1) Notify both the Commissioner and the affected LEA of its belief;

(2) Provide both with a written, detailed statement of the reasons for its belief; and

(3) Notify the affected LEA that it will not make additional subgrants to the LEA or approve project applications submitted by the LEA until the Commissioner either—

(i) Waives the requirements of Subpart H for the affected LEA; or

(ii) Determines that the affected LEA is in compliance with the requirements of section 406 of the Act.

(c) A waiver under this section lasts until the Commissioner determines that there is no longer any failure on inability of the part of the SEA or affected LEA to comply with the requirements of Subpart H.

(Secs. 406(d), 406(e), and 406(f) of the Act; 20 U.S.C. 3086(d), 3086(e), and 3086(f))

§ 134.82 By-pass.

(a) If the Commissioner waives the requirements of section 406 for a State or one or more of its LEAs, the Commissioner arranges for the equitable provision of Title IV benefits to the affected private school children. However, if the Commissioner—

(1) Waives the requirements of Subpart H for one or more LEAs; and

(2)(i) Determines that the affected SEA is not, under State law, prohibited from complying with the requirements of section 406, the Commissioner may offer the SEA the opportunity to make an arrangement, either directly or by contract, for the equitable provision of Title IV benefits to the affected private school children.

(ii) The SEA shall promptly notify the Commissioner if it intends to make these arrangements.

(b) Pending the final resolution of a complaint or the results of any investigation which may lead to a waiver of the requirements of section 406 under § 134.81, the Commissioner may withhold from the allocation of the affected State or LEA the amount needed to pay the cost of an arrangement under paragraph (a) of this section.

(c) If, after consultation with the appropriate representatives of the public and private school children—

(1) The Commissioner makes an arrangement under paragraph (a) of this section, the Commissioner pays the cost of that arrangement—including necessary administrative expenses—from the appropriate Title IV allotment of the affected State; or

(2) An SEA makes an arrangement under paragraph (a) of this section, the SEA shall pay the cost of that arrangement from the appropriate Title IV allotment of the affected LEA. If that arrangement requires the SEA to perform administrative activities it would not otherwise perform, it may pay the cost of those additional activities from the appropriate allotment of that LEA.

(Secs. 406(d), 406(e), and 406(g) of the Act; 20 U.S.C. 3086(d), 3086(e), and 3086(g))

Subpart J—Other Compliance Procedures Used by the Office of Education

§ 134.90 Waivers of maintenance of effort.

Because of exceptional and unforeseen circumstances affecting one or more LEAs in a State, the Commissioner may waive the maintenance of effort requirements in § 134.12, if it is equitable to do so. This waiver is effective for one fiscal year only, and may not be repeated.

(a) Examples of exceptional and unforeseen circumstances include—

(1) An unforeseen, substantial removal of property from the tax roll due to—

(i) A disaster of human or natural causes;

(ii) A government action; or

(iii) The departure of an industrial or commercial facility.

(2) An unforeseen, substantial diversion of available revenue to other purposes outside the control of the SEA or LEA due to emergency circumstances such as those resulting from a disaster of human or natural causes.

(3) An unforeseen, substantial decrease in expenditures by a State or LEA due to a strike of educational or service personnel;

(4) An unforeseen, substantial decrease in expenditures by a State or LEA due to energy shortages or other emergency circumstances;

(5) An extraordinary State or local appropriation to meet an unexpectedly acute educational need.

(b) Examples of circumstances the Commissioner does not consider to be exceptional and unforeseen include—

(1) A deliberate substantial reduction of available revenue due to an act of a State or local legislature or electorate in other than emergency circumstances; and

(2) The failure of an SEA or LEA to maintain its fiscal effort when it had the financial resources available to do so.

(c) In determining whether it is equitable to grant a waiver under subsection (a), the Commissioner considers—

(1) The extent to which the circumstances claimed to be exceptional and unforeseen were of the SEA's or LEA's own making;

(2) The extent to which the SEA or LEA attempted to maintain its expenditures for programs described in Parts B and D and the Strengthening SEA Management program despite those circumstances; and

(3) Any other relevant factors.

(Sec. 431A of GEPA and H. Rept. 95–1137, 95th Congress, 2d Sess., at 139; 20 U.S.C. 1232–1)

§ 134.91 Maintenance of effort waiver procedures.

If a State discovers that it cannot comply with the assurance in its State plan to maintain expenditures, it shall—

(a) Promptly notify the Commissioner and request a waiver for the appropriate fiscal year; and

(b) Amend its State plan to reflect the request for a waiver.

(Sec. 404(a)(7) of the Act; 20 U.S.C. 3084(a)(7))

§ 134.92 Effect of waiver of maintenance of effort.

(a) If the Commissioner grants a waiver of maintenance of effort under § 134.90, the Commissioner reduces the total amount a State may receive for that fiscal year by the exact proportion its expenditures for the preceding fiscal year fell short of its expenditures for the second preceding fiscal year. Those expenditures may be calculated on either an aggregate or aggregate per student basis.

(b) Subsequent determinations of whether that State has maintained its effort are made on the basis of the expenditures that would have been required had the Commissioner not granted a waiver.

(Sec. 431A(b) of GEPA; 20 U.S.C. 1232–1(b))

Note.—These appendices are being published for informational purposes only and will not be published in Title 45 of the Code of Federal Regulations.

Note on Appendices.—Appendix A contains the information the State must include in its State plan, and Appendix B contains examples of changes in program administration which would require the SEA to amend its State plan. Appendix C contains comments on the Notice of Proposed Rulemaking and the Commissioner's responses.

Appendix A—State Plan

General

As required by section 404(a) of Title IV, an SEA shall submit a State plan containing that information the Commissioner considers necessary. An SEA shall—

(a) Designate the SEA as the sole State agency responsible for administration of the plan, as required by section 404(a)(1).

(b) Describe a program for expenditure of funds for the purpose of Parts B, C, and D, as required by section 404(a)(2). This program description must include an identification of the units responsible for administering Title IV in general, and Parts B, C, and D in particular, and show how the relationship among these units results in program coordination. This description must also include any priorities in Part C program purposes or activities the SEA intends to implement.

(c) Describe the application review process; criteria for fund distribution; and the procedures for program monitoring, evaluation, and dissemination, as required by section 501(b) of Title V of ESEA or section 435(b) of GEPA, whichever applies.

(d) Assure that it will meet the requirements pertaining to equitable participation of pupils and teachers in private schools, as required by section 404(a)(3), or certifies that these requirements cannot legally be met. The rules implementing a waiver of this requirement are contained in subpart I of this part.

(e) Submit policies and procedures, as required by section 404(a)(10), that it

will follow to insure that it will not commingle Federal funds with State funds.

(f) Explain how it will provide technical assistance to private school officials, as required by section 404(a)(11). The rules implementing this requirement are contained in 45 CFR 119.10(b). (State plan).

(g) Present its plan to coordinate Federal and State funds for preservice and inservice education of educational personnel in the State, as required by section 404(a)(12). The rules implementing this requirement are contained in 45 CFR 119.10(c) (State plan).

(h) Explain the activities that the SAC will conduct to carry out its advisory, evaluation, and reporting functions required by section 404(b).

(i) Describe any rule or other requirement it adopts under section 504 of Title V of ESEA and the reason for its adoption.

(j) Assure that it will submit to the Commissioner each year the following information:

(1) For Part B, current enrollment figures for public and private elementary and secondary schools, and State supported special schools.

(2) For Part C, information about each LEA project funded, including the following:

(i) Name of LEA and title of project.

(ii) Enrollment.

(iii) Congressional district.

(iv) Curriculum area.

(v) Target population.

(vi) Number of public and private school children, teachers, and other participants.

(vii) Grade level.

(viii) Number of years project has been in operation.

(ix) Amount of subgrant.

(x) Fiscal year source of funds.

(xi) Budget period.

(xii) Type of project (e.g., to plan and develop new and promising local educational practices; to adopt successful practices developed by other LEAs).

(3) For Part D, the information in paragraph (1) if funds are distributed to LEAs on a formula basis or the information in paragraph (2) if the funds are distributed on a competitive basis.

State Plan—Part B

An SEA shall include in its State plan assurances and other information that apply specifically to Part B.

An SEA shall—

(a) Describe the administration of the Part B program, including the staffing pattern, as required by section 404(a)(2);

(b) Describe the means by which technical assistance will be provided to LEAs, as required by section 404(a)(4);

(c) Describe the procedure that LEAs will follow in submitting applications for Part B funds not more often than once every three years, as required by section 404(a)(6);

(d) Assure that, for each fiscal year covered by the State plan, the amount expended per student or the aggregate expenditure by the State, its LEAs, and private schools from funds derived from non-Federal sources for programs described in Part B was not less for the preceding fiscal year than the amount per student or the aggregate expenditure for the second preceding fiscal year, as required by section 404(a)(7);

(e) Show what part of the funds received for administration of the State plan, as provided in section 404(a)(8), it will use for administration of Part B;

(f) Explain how its distribution formula for Part B funds complies with section 422(a) of the Act and § 134.40(a) of these regulations;

(g) Assure that LEAs will be given complete discretion—subject to the provisions of section 406—in determining how Part B funds will be divided among the purposes described in section 421, as required by section 422(b);

(h) Assure that, as required by section 422(b), each LEA—in making its determination about the division of Part B funds among the authorized program purposes—has adopted appropriate procedures to coordinate the selection of equipment and materials with curricula being carried out in the schools within that LEA. These procedures must include periodic consultation with teachers, librarians, media specialists, other professional staff in the schools, and private school officials.

State Plan—Part C

An SEA shall include in its State plan assurances and other information that apply specifically to Part C. An SEA shall—

(a) Describe the administration of the Part C program, including the staffing pattern, as required by section 404(a)(2);

(b) Describe the means by which technical assistance will be provided to LEAs, as required by section 404(a)(4);

(c) Assure that it will distribute part C funds to LEAs on an equitable, competitive basis and assist LEAs less able to compete, as required by section 404(a)(5). The SEA shall also describe the procedures it will use to comply with these assurances.

(d) Show what part of the funds received for administration of the State plan, as provided in section 404(a)(8), it will use for administration of part C;

(e) Assure that funds it receives under section 404(a)(9) will be used to carry out the authorized activities for strengthening SEA management in accordance with section 521 of Title V and its approved Title V–B State plan;

(f) Assure that it will use the amount prescribed in section 431(b)(2) for the purpose of encouraging innovation and improvement in compensatory educational efforts.

(g) Describe how it will apply the criteria prescribed by the Commissioner to reduce Federal funding to LEAs during the fourth and fifth years of Part C projects, as required by section 432(a) and § 134.41;

(h) Assure that it will allocate the amounts prescribed in section 432(b)(1) for LEA projects to coordinate Federal, State, and local resources to improve school management;

(i) Assure that it will not approve a project under section 431(a)(6) unless it has been developed in accordance with section 432(b)(2);

(j) Assure that 15 percent of the amount it receives for part C projects will be used for special projects for the education of handicapped children, as required by section 432(c);

(k) Describe the procedures it will use to ensure that all Part C funds it awards for projects for handicapped children will be used in a manner that meets the requirements of § 134.68(b);

(l) Assure that it will not approve the application of an LEA for Part C funds unless it has determined that the LEA has taken into account the needs of private school children, as required by section 432(d); and

(m) Describe the procedures and criteria it will use to supplement the funding of LEA projects, as permitted by § 134.54.

State Plan—Part D

An SEA shall include in its State plan assurances and other information that apply specifically to Part D. An SEA shall—

(a) Describe the administration of the Part D program, including the staffing pattern, as required by section 404(a)(2);

(b) Describe the means by which technical assistance will be provided to LEAs, as required by section 404(a)(4);

(c) Describe the means by which State leadership and supervisory services will be provided, as required by section 441(a)(1), if not described in (a) or (b) of this section;

(d) Describe the procedures that LEAs will follow in submitting applications for Part D funds not more often than once

every three years, as required by section 404(a)(6);

(e) Assure that, for each fiscal year covered by the State plan, the amount expended per student or the aggregate expenditures by the State, its LEAs, and private schools from funds derived from non-Federal sources for programs described in Part D was not less for the preceding fiscal year than the amount per student or the aggregate expenditure for the second preceding fiscal year, as required by section 404(a)(7);

(f) Show what part of the funds will be used for State leadership and supervision, as provided by section 441(b);

(g) Show what part of the funds received for administration of the State plan, as provided in section 404(a)(8), it will use for administration of Part D;

(h) Assure that LEAs will be given complete discretion—subject to the provisions of section 406—in determining how Part D funds will be divided among purposes described in section 441, as required by section 442.

Appendix B

Amendments to State Plan (See 45 CFR 100b.140–100b.142 of EDGAR.)

Examples of occasions when an SEA is required to amend its State plan include;

(a) For Part B—

(1) When material changes in program administration are made; or

(2) When changes in criteria affecting the distribution of funds are made; or

(3) When a request for a waiver of the maintenance of effort requirement is necessary; or

(4) When changes are made in the authorizing statute and regulations.

(b) For Part C—

(1) When material changes in program administration, purposes, priorities, or funding requirements for LEA projects are made; or

(2) When changes are made in the authorizing statute and regulations.

(c) For Part D—

(1) When changes in criteria affecting the distribution of funds are made; or

(2) When material changes in program administration or funding requirements for LEA projects are made; or

(3) When a request for a waiver of the maintenance of effort requirement is necessary; or

(4) When changes are made in the authorizing statute and regulations.

Appendix C

Comments and Responses to the Notice of Proposed Rulemaking

General comments on the regulations are responded to first, followed by specific comments arranged in order of the sections of the final regulations to which they pertain. Where the section number in the final regulations differs from that in the proposed rule, the proposed number is also identified.

General

Comment. One commenter recommended that USOE require the involvement of teacher's associations throughout the administation of State ESEA Title IV programs to insure their success.

Response. No change has been made. While desirable in many instances, the Commissioner has no authority to impose this requirement.

Comment. A commenter asked if grouping all regulations that applied to the separate programs of Title IV—Parts B, C, and D—was considered since most LEAs would be applying for subgrants separately and since the programs are separately administered in the Office of Education.

Response. No change has been made. The grouping of all regulations that apply to the separate parts of Title IV was considered.

A competing consideration is that many of the requirements of the regulations apply either to all three parts, e.g., participation of private school children, or to two parts, e.g., the three year local application. To repeat these requirements for the different programs would unduly lengthen the regulations. Wherever possible, the section heading highlights the part or parts to which the section applies.

Comment. A commenter suggested that the regulations require States to encourage funding of testing, counseling, and guidance under Part D in those LEAs that currently support those activities with Part B funds. The commenter felt that these LEAs had a demonstrated need for counselors and that this practice would ease the transition to Part D.

Response. No change has been made. This suggestion was not incorporated in the regulations because expressions of encouragement are not appropriate for regulations. The Office of Education informed Chief State School Officers in a memorandum dated July 18, 1979, that guidance, counseling, and testing activities may be conducted by LEAs, at their discretion, during fiscal year 1980 with Part B funds. The Part D program will be implemented in fiscal year 1981.

Section 134.1 Educational improvement, resources and support.

Comment. A number of commenters suggested that the purpose of the Act as described in § 134.1(c) be expanded to specify early intervention, an interdisciplinary team model, and services for children with special needs.

Response. No change has been made. Section 134.1(c) adheres to the language of section 401(3) of the Act. The statutory and regulatory language is clearly broad enough to include the particular types of activities suggested.

Section 134.4 Definitions as used in this part.

"Academic subjects"

Comment. A number of commenters objected to the definition of "academic subjects" because they believed it was too restrictive. Some commenters said that music education and physical education should be added to the list of academic subjects. One commenter said any subject for which an LEA gives academic credit should be considered an academic subject. One commenter asked whether an SEA could add subject areas to those already listed, and another said that SEAs or LEAs should be able to define the term for themselves.

However, several commenters said the definition should include only the twelve subject areas specifically mentioned; another commenter opposed the expansion of the definition except for subjects such as sociology, psychology, and physiology. One commenter expressed approval of the definition as written.

Response. No change has been made. SEAs may not narrow the definition of "academic subjects," which includes any subject included in an LEA's elementary and secondary school program except religious instruction. This interpretation is long-standing and is rooted in the very broad purposes for which Part B program funds may be spent. LEAs need to have broad choices among curricular areas.

"Counseling"

Comment. A number of commenters suggested that the regulations should define "counseling", and that the regulatory definition of "counseling services" for the purpose of part B of the Education of the Handicapped Act, Pub. L. 94–142—that is, "services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel"—be used. Several commenters said the definition of counseling should be restricted to the activities of school counselors. Several other commenters, however, supported the proposed regulations for not defining "counseling."

Response. No change has been made. The regulations that implemented the

guidance and counseling programs formerly authorized by Title IV, Part B of ESEA and, prior to the Education Amendments of 1974, Title III of ESEA did not define the term with reference to the particular qualifications of individual counselors. It is the Commissioner's desire to afford maximum flexibility to the States and, in any event, the Commissioner has no authority to regulate with respect to certifications, licensure, or other individual qualification requirements.

"Handicapped children"

Comment. One commenter suggested that for the sake of consistency, the definition of "handicapped children" should be changed to that provided by 45 CFR 121a.5 which applies to the program authorized by Pub. L. 94–142.

Response. A change is made. The definition of "handicapped children" has been changed to agree with the definition in 45 CFR 121a.5 of the regulations for Part B of the Education of the Handicapped Act, Pub. L. 94–142.

"Instructional equipment"

Comment. Over 300 comments were received protesting the exclusion of "band instruments" from the definition of instructional equipment, and more than one hundred protested the exclusion of "gym equipment." Generally their objections were based on the educational and social values of music and physical education in instructional programs. Several noted that exclusion of this equipment affected the very programs most frequently sacrificed when school systems encounter local budget limitations. Some commenters also noted that many parents are unable to furnish band instruments for their children's use.

Many commenters also raised questions about the eligibility of related types of equipment, e.g., orchestral instruments and athletic equipment. Other commenters said that only persons involved in instructional programs at the the State and local level could properly decide whether particular items of equipment were directly related to instruction in an academic subject. A few commenters approved of the definition of instructional equipment as written; two protested the exclusion of stoves and refrigerators; and one said furniture for staff offices should be permitted.

Response. A change has been made. House Report No. 95–1137, 95th Cong., 2d Sess. indicates the concern of Congress that Part B funds "were being misused to purchase general office equipment such as typewriters, ice machines, and filing cabinets and for items peripheral to basic learning such as uniforms and a background music system" (at 63).

The same report requests the Commissioner to take this concern into account and provide "very clear guidelines . . . to local educational agencies on the use of these funds as intended by Congress" (at 63). The House Report does not make clear, however, whether the Committee intended to make all band instruments and gym equipment ineligible, or merely to respond to those particular abuses brought to its attention, that is, items "peripheral to basic learning" such as office furniture, stoves and refrigerators, band uniforms, sound systems and bleacher seats.

The proposed definition of "instructional equipment" attempted to interpret the intent of the Committee in a way best suited to accomplish the goal of providing "very clear guidelines" to State and local educational agencies while at the same time satisfying the concerns of Congress over the misuse of funds. Additionally, while it may be true that music and physical education programs are often sacrificed when school systems encounter budget limitations, it is not the purpose of part B to ameliorate these situations.

There is little doubt, however, that the fundamental objective of the Part B program is to make materials and equipment available to local educational agencies "for instructional purposes only" (sections 421(1) and (2) of the Act). The commenters have demonstrated the widespread belief that, in some instances, certain musical instruments and gym equipment can be regarded as appropriate for providing instruction in academic subjects. In view of the lack of clarity in the House Report, the Commissioner believes the total exclusion of all band instruments and gym equipment is too sweeping and not necessary to achieve the fundamental objective of Congress.

Therefore, the definition of "instructional equipment" has been rewritten to explain that Part B funds may be used to acquire musical instruments and physical education equipment if used for instructional purposes in music or physical education classes in the school's regular instructional program. The definition excludes musical instruments and gym equipment acquired for non-instructional purposes, such as recreational use. The specific exclusion of office furniture, stoves, refrigerators, band uniforms, and bleacher seats are retained as these items appear to be "peripheral to basic learning" and within the scope of the specific abuses to which Congress was reacting in Pub. L. 95–561.

It is the responsibility of SEAs and LEAs to see that requests for the acquisition of equipment in the areas of music and physical education, as in all areas, are supported by evidence of the intent to use the equipment for instructional purposes only.

"Instructional materials"

Comment. A commenter objected to the inclusion of raw materials for the preparation of instructional resources within the definition of "instructional materials." The commenter noted that raw materials used to prepare instructional materials are consumed in the process of creating a new product and that raw materials might be fashioned into products used for religious instruction.

Response. No change has been made. Under the program authorized by Title III of the National Defense Education Act of 1958—one of the predecessors of the Title IV, Part B program—grantees were permitted to acquire raw or processed materials or component parts to be made into finished products for instruction in the academic subjects. Moreover, such materials are not truly consumed in use but may be considered converted into items of a useful and durable nature.

Of course, the instructional resources created from these raw materials may only be used for instructional purposes and not for religious instruction or worship. In any event, because the participation of children attending private schools is planned cooperatively by the LEA and the representatives of those chlidren, the intended use of the raw materials will be apparent prior to their acquisition.

Comment. A commenter stated that "school library resources" should be deleted from the definition of "instructional materials" because its inclusion made it difficult to monitor and evaluate the impact of Part B upon school library programs. The commenter said that "school library resources" should be defined separately.

Response. No change has been made. Section 421(1) of the Act authorizes, in part, "the acquisition of school library resources, textbooks, and *other* printed and published instructional materials" (emphasis added). Therefore it seems clear that Congress considers "school library resources" to be a type of "instructional material." These regulations do contain a separate definition of school library resources.

Comment. One commenter asked why the definition of "instructional materials" limited the eligibility of

materials to those items that with reasonable care are expected to last more than one year.

Response. No change has been made. This provision has been a part of the Part B program, and its predecessors, for a number of years. The legislative history surrounding Pub. L. 95–561 does not indicate that Congress intended to alter this long-standing interpretation. The requirement insures that the materials purchased will be durable enough to withstand ordinary use. There have been very few problems with LEAs purchasing short-lived materials in previous years.

"Private school"

Comment. One commenter requested a more restrictive definition of "private school." Another commenter said the regulations should give SEAs and LEAs the authority to define "private schools."

Response. No change has been made. Section 406 of the Act explains that children attending private, nonprofit elementary and secondary schools are intitled to participate in Title IV. The definition of "private school" is consistent with the definition of "private" provided in EDGAR. The term "nonprofit" is defined in EDGAR; the terms "elementary school" and "secondary school" are defined in section 1001 of the Act.

"Testing"

Comment. One commenter requested that the definition of "testing" be expanded to include personality testing, specifically "the use of measures to assess the emotional functioning of students who are suspected of being seriously emotionally disturbed in order to determine how their educational needs can be met."

Response. No change has been made. The regulatory definition of testing for the purpose of this program has remained materially the same for a number of years. The legislative history of Pub. L. 95–561 does not indicate that Congress sought to expand it.

"Textbooks"

Comment. A commenter was concerned about the definition of "textbooks" because it does not state that textbooks acquired with Part B funds must be supplementary. This commenter feared that in the absence of this qualifying language, Part B could become merely a basic textbook acquisition program, and not be used to improve library and media services. It was the view of the commenter that Part B funds, if used to acquire textbooks, should be used only for supplementary texts.

Response. No change has been made. There is no statutory basis for this type of requirement. The improvement of school library and media services is only one of the specific purposes of Part B; the acquisition of textbooks is another. All Part B projects are designed to meet the identified needs of the children selected to participate. While it would be desirable that Part B funds earmarked for textbook purchases be used for supplementary texts, the specific educational needs of the participating children must be regarded as controlling, and in some cases it may be appropriate to acquire basic textbooks.

Section 134.10 Documents the State must submit to get a grant.

Comment. One commenter suggested that the regulations should require a greater degree of involvement from institutions of higher education in the development of State plans.

Response. No change has been made. Teachers from institutions of higher education must be represented on the advisory council under section 404(b)(1)(A)(ii) of the Act. Section 404(a)(12) of the Act also requires the involvement of institutions of higher education in the development of the comprehensive plan for inservice and preservice education. The Title IV statute does not authorize the Commissioner to require further involvement of institutions of higher education. This type of involvement is, of course, permissible.

Comment. One commenter recommended that the State plan and LEA applications set forth "programmatic and training strategies to eliminate sexism in guidance and counseling" and "assurances for developing bias-free competency testing."

Response. No change has been made. Title IV of the Act does not authorize OE to impose these requirements. Of course, as indicated by 45 CFR 100b.500 (EDGAR), SEAs and LEAs are required to comply with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.

Section 134.11 Conditions the State must meet before submitting a plan—State advisory council (proposed section 134.12).

Comment. A commenter stated that this provision would be clearer if the regulations indicated how Pub. L. 95–561 alters the required membership of the State advisory council from Pub. L. 93–380.

Response. A change has been made. Section 134.11(a) of the regulations clearly lists the required membership of the State advisory council. Therefore, it is not necessary to list those resources added to the State advisory council by Pub. L. 95–561.

Comment. One commenter questioned the legal authority for permitting a single member of the State advisory council to represent more than one of the cultural or educational resources specified by section 404(b)(1)(A) of the Act.

Response. No change has been made. House Report No. 95–1753, 95th Cong., 2d Sess. at 278 clarifies that "States may appoint one person to their advisory councils to fulfill more than one of the requirements for membership."

Comment. One commenter suggested that the State advisory council include "women who are knowledgeable of and sensitive to the problems of sex discrimination and stereotyping in guidance, counseling, and testing programs." Another commenter suggested that a social worker be added to the State advisory council.

Response. No change has been made. Section 404(b)(1)(A) of the Act identifies the resources that must be represented on the advisory council. The Commissioner does not have the authority to add to or subtract from these statutory requirements. However, States are not restricted in the selection of persons to represent each resource and may add representatives of other resources.

Comment. Several commenters suggested that the regulations specifically require that a practicing teacher or a member of a teacher organization serve on the State advisory council.

Response. No change has been made. Section 404(b)(1)(A) of the Act does not authorize the Commissioner to impose such a requirement. States may choose to include such resources, of course.

Comment. One commenter questioned if the use of the phrase "teachers from institutions of higher education" in section 404(b)(1)(A)(ii) of the Act excluded administrators of institutions of higher education as members of the State advisory council.

Response. No change has been made. Section 404(b)(1)(A) identifies the resources that must be represented on the advisory council; however, this list does not exclude other resources.

Section 134.12 Conditions the State must meet before submitting a plan—maintenance of effort. (proposed Section 134.13)

Comment. A commenter objected to the maintenance of effort requirement, stating that it should be deleted because of declining enrollment.

Response. No change has been made. Section 404(a)(7) of the Act requires maintenance of effort for Parts B and D of Title IV and section 521 of Title V. Of course, SEAs may measure maintenance of effort on a per student basis, in the case of declining enrollment.

Comment. A commenter asked why proposed § 134.13(e) gave the State authority to exclude LEAs or children enrolled in private schools from participation in Part B or part D under certain circumstances.

Response. No change has been made. These exclusions are permitted to ensure that an entire State is not denied participation in the Part B or Part D program if the Commissioner declines to waive the State's requirement to maintain expenditures *and* if an LEA's or private school's failure to maintain expenditures prevents the State from complying with the maintenance of effort requirement. Unless this exclusion is permitted, decreased expenditures in one or more LEAs or private schools, under circumstances that would not be regarded as grounds for a waiver, would throw the entire State out of compliance.

Comment. A commenter suggested that proposed § 134.13 be revised by insertion of the phrase "or Federal funds for which the recipient is not directly accountable to the Federal or State government" immediately following the phrase "non-Federal funds" each time that phrase appears. The commenter stated that many LEAs receive Federal funds under such programs as Impact Aid, Pub. L. 81–874, for which they are not directly accountable to the Federal or State government.

Response. No change has been made. The statutory maintenance of effort requirement is expressed in terms of "funds derived from non-Federal sources."

Comment. A commenter pointed out that proposed § 134.13(d)(1) refers to averaging "appropriations" while proposed § 134.13(d)(2) refers to averaging "funds."

Response. A change has been made in § 134.12(d)(1) to clarify that under the conditions described, a State may choose to average its non-Federal *expenditures* for programs described by Part B and part D and section 521 of Title V of the Act.

Comment. A commenter questioned whether a State could exclude more than one LEA that had failed to maintain non-Federal expenditures.

Response. No change has been made. However, under § 134.12(e)(1) an SEA may exclude more than one LEA that has failed to maintain non-Federal expenditures.

Comment. A commenter suggested that the maintenance of effort requirement should not be applied to the expenditures of private schools because LEAs and SEAs have no control over private schools, and SEAs do not normally require for their own purposes any data from private schools.

Response. No change has been made. Section 404(a)(7) of the Act requires that the maintenance of effort determination be made on the basis of the State's total expenditures—that is, expenditures of the State, its LEAs, and private schools—for program purposes.

Comment. A commenter requested clarification of maintenance of effort for Part B and Part D regarding State, LEA, and private school expenditures for testing, counseling, and guidance. The commenter wondered whether non-Federal expenditures for testing, counseling, and guidance should be separated from those for instructional materials and equipment.

Response. No change has been made. To fulfill the maintenance of effort requirement for part B as amended by Pub. L. 95–561, which transferred the guidance, counseling, and testing program to Part D of Title IV, SEA, LEA, and private school expenditure data for school library resources, textbooks, other instructional resources, and instructional equipment must be reported for the first and second preceding fiscal years. Similarly, for Part D, SEA, LEA, and private school expenditures for guidance, counseling, and testing must be reported for the first and second preceding fiscal years.

Comment. Two commenters said that complying with the maintenance of effort requirement for Part D will prove difficult and proposed amending or deleting the requirement.

Response. No change has been made. The maintenance of effort requirement for Part D is statutory.

Section 134.30 Documents the applicant must submit to get a subgrant.

Comment. One commenter suggested that § 134.30(b) (1), (2), and (3) unduly restrict the ability of SEAs to obtain the information they need annually to determine whether LEAs are complying with Federal requirements.

Response. A change has been made. Proposed § 134.30(b) has been rewritten to provide "An SEA may require an LEA to supplement annually its project application for Part B or D funds with the information it needs to determine whether the LEA is complying with the requirements of the Act, including * * *" This clarifies that SEAs are not restricted to the types of information specifically mentioned by the regulations, but may require LEAs to provide whatever information is reasonably necessary to determine compliance with statutory and regulatory requirements.

Section 134.31 Provisions required in the documents.

Comment. Several commenters suggested changes in the data to be included in an LEA application concerning the participation of private school children. One commenter objected to the requirement that the number of private school children enrolled in schools located within its boundaries be included, suggesting that only the number attending eligible and participating private schools was necessary.

Another suggested that all documentation should be eliminated because of the paperwork required, in favor of an assurance that the LEA has complied with the requirements for consultation with the representatives of the private school children. One commenter requested that no change be made.

Response. No change has been made. It is believed that the SEA needs to know the number of public and private school children enrolled in schools located within the boundaries of the LEA if it is to determine whether the LEA is providing equitably for private school children.

Comment. One commenter felt that LEAs should be required to list the names and addresses of all private schools within its boundaries.

Response. A change has been made. Paragraph (b) has been revised to permit SEAs to request the names and addresses of all private schools within the boundaries of an LEA. To require all LEAs to include this information might duplicate information already known to the SEA.

Section 134.40 Determination of the amount of the subgrant.

Comment. Six commenters objected to using 200 percent of the per pupil amount used for the enrollment factor as the higher per pupil allocation for the tax effort and high cost child factors because it was too high, and suggested amounts ranging between 125 and 175 percent. Other commenter said that the 200 percent amount was too inflexible, was unfair to States whose tax levels are frozen, and would concentrate part B funds in too few LEAs. One commenters said the 200 percent amount tended to reward LEAs whose tax effort is above average, but not as far as some other LEAs. Two commenters suggested that the States should have sole control

of the amount of Title IV–B funds distributed to LEAs.

Several commenters complained that the provision was not clearly written or demonstrated that they had not understood it. Several commenters requested an example of the formula's operation. One commenter asked for the rationale for the 200 percent level.

Response. A change has been made. With respect to the distribution of Part B funds among LEAs, section 422(a) of the Act requires the Commissioner to prescribe criteria that will "provide higher per pupil allocations to (1) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure * * * is no greater than the average per pupil expenditure in the State, and (2) local educational agencies which have the greatest numbers of percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas and children from families in which English in not the dominant language."

An additional per pupil amount that is at least equal to the per capita enrollment allocation is reasonable because it allocates enough Part B funds to have an impact upon the two categories of LEAs identified by the statute and is not unduly burdensome; 34 States are already in compliance, or very close to it. Moreover, the regulations afford States substantial freedom to identify which LEAs qualify on the basis of their high tax effort and what categories of children will be regarded as "high-cost children."

For clarity, the provision has been reworded and an example of its operation included.

Comment. One commenter said that an SEA that was unable to provide information regarding the tax effort and expenditures of each LEA should be permitted to decline to award higher per pupil allocations under the tax effort factor.

Response. No change has been made. Section 422(a) of the Act requires the State to provide higher per pupil allocations to LEAs whose tax effort is substantially greater than the State average tax effort but whose per pupil expenditure (excluding funds awarded under Title I of ESEA) is no greater than the average per pupil expenditure in the State. It is therefore appropriate to allow a State to decline to use the tax effort factor only where enough information is provided to allow the Commissioner to determine that no LEAs in the State satisfy the statutory standards.

Comment. A commenter asked why an exemption from the high tax effort factor in relation to the part B distribution formula (§ 134.40(a)(2)) was granted in terms of substantially equal expenditures. The commenter felt that the exemption should be in terms of equal tax effort since a State could have substantially equal expenditures among LEAs that tax themselves quite differently.

Response. A change has been made. A State is permitted to decline awarding higher per pupil allocations for high tax effort only if no LEA in the State satisfies the statutory requirement. Therefore, an SEA may decline to award higher per pupil allocations to LEAs only if it provides enough information in its State plan to allow the Commissioner to determine that no LEA is making a substantially greater than average tax effort, or, if any LEA is making a substantially greater than average tax effort, its per pupil expenditures exceed the State average.

Section 134.41 Multi-year part C projects.

Comment. A large number of commenters objected to the five year limitation on funding an ESEA Title IV–C project imposed by § 134.41(a). These commenters argued that the statute refers to a 5-year limitation on funding a *particular activity.* In essence, they maintain that the development and demonstration aspects of a project are entirely different project activities.

Response. No change has been made. While the Title IV statute is not absolutely clear on this matter, the Commissioner believes it was the intent of Congress to impose a 5-year limitation (excluding planning grants) upon the duration of Part C projects.

Section 432(a) of the Act states that "funds may be provided to a local educational agency under Part C *for a particular activity* for a period of not to exceed five fiscal years * * *" (Emphasis added.) In addition, the Title IV statute clearly does contemplate the award of "planning," "development," and "demonstration" subgrants (sections 431(a)(1), 431(a)(2) and 432(a)), each of which has commonly understood characteristics that might be considered as distinct activities.

However, a careful reading of section 431 shows that Congress used the term "activities" to refer to the substantive nature of authorized projects, such as projects for handicapped children or projects for educationally deprived children, and not to the possible stages through which a single project may progress. It should be noted that when the statute refers to development, demonstration, or planning it does so in a way that distinguishes those concepts from the statutory meaning of the term "activities." For example, section 431(a)(1) authorizes the use of subgrants for "the development and demonstration of activities designed to address serious educational problems * * *."

The legislative history of these provisions supports this view. House Report No. 95–1137, 95th Cong., 2d Sess. at 64 explains that Congress noted "a major problem" in "getting the local districts to continue projects * * * once Federal funding terminates." To remedy this problem, Congress observed that "although States for the most part have limited Part C projects to three or five years of Federal funding * * * this ought to be clearly spelled out, so that other districts can benefit from Federal seed money." As a result Pub. L. 95–561 "states explicitly that these Federal funds will be available for no more than five years * * *." In short, in the Education Amendments of 1978, Congress sought to limit, not lengthen, the duration of Part C projects.

Against this background it would be anomalous to construe development and demonstration subgrants as separate project "activities." The result of doing so would be to implicitly sanction Part C projects of ten (or more) years' duration—much longer than the practice prior to Pub. L. 95–561.

Comment. A large number of commenters objected to the requirement in paragraph (b) that LEAs intend to support successful Part C project activities with non-Federal resources when Part C funds are no longer provided. They pointed out that this requirement would prohibit an LEA that uses Title IV–C funds to develop a successful compensatory education project or a successful project for handicapped children from using Title I, ESEA or Pub. L. 94–142 funds to continue those successful activities beyond the life of the Title IV–C project—while an LEA that merely adopts those successful activities presumably could use those Federal funds.

Response. A change has been made. Section 432(a) of the Act explains that it is the intent of Congress "to ensure that successful practices developed with (Title IV–C funds) be adopted and supported as part of the *regular program* of the (participating LEAs)." (Emphasis added.)

Neither the Title IV statute nor its legislative history clearly defines the meaning of the term "regular program" or explains what sources of funding Congress believed would be used to provide an LEA's regular program. The

proposed regulations implemented the Congressional intent by requiring the SEA to determine, before making a funding commitment, that the LEA intends to adopt successful project activities as part of its regular program. Based upon language in House Report No. 95–1137, 95th Cong. 2d Sess., at 64–65, the proposed regulations defined the LEA's regular program, in part, as those activities supported by non-Federal funds.

Many commenters objected to this restrictive interpretation and argued that activities supported by Federal funds under programs such as Title I, ESEA or Pub. L. 94–142 (EHA) are widely considered to be part of an LEA's "regular program," although targeted upon the needs of a specific student population. The Commissioner agrees and believes it would be inappropriate to discourage the adoption of successful activities developed with Title IV–C funds. Therefore, the regulations have been changed to indicate that for the purpose of this requirement a State may not consider an activity that is supported by funds for which the LEA must compete against other LEAs or similar applicants as part of its "regular program." Of course an LEA may use funds made available under other Federal programs to continue successful Title IV–C activities only if that use is consistent with all the legal requirements of those other programs. For example, ESEA Title I funds could be used to support an effective program developed with ESEA IV–C funds, provided that it met the statutory requirements for ESEA Title I.

Comment. One commenter suggested that § 134.41(c) provide guidance for determining precisely what constitutes a "substantial reduction" in the amount of the forth and fifth year Title IV–C grants.

Response. No change has been made. The purpose of the required reduction is to promote the continuation of successful practices after Title IV–C support has been terminated. Many SEAs already have funding strategies designed to accomplish this. To prescribe rigidly the amount of the reduction would interfere with these strategies.

SEAs should be given maximum flexibility—consistent with the purposes of the requirement—to establish the amount of the reduction during the fourth and fifth year.

Comment. One commenter raised a number of questions about the requirement, in § 134.41(d)(3), that the LEA include in its application for the fourth and fifth year how it will continue to provide with Federal funds, equitable benefits to private school children who participate in the project. This commenter suggested the requirement be modified to require information on (a) how the private schools will compensate for the reduction of part C funds in the fourth and fifth year without reducing the project's scope and quality, and (b) how the private school will incorporate the activities into its regular school program after part C funds are no longer provided.

Response. No change has been made. The application requirements of § 134.41(d) were designed to assist the SEA in determining whether successful part C activities are being incorporated into the LEA's regular school program as Congress intended. While it is hoped that private schools will also incorporate successful Part C practices, the Commissioner has no authority to require it. Similarly, it is hoped that during the fourth and fifth years private schools will be able to contribute resources to the Part C project so that the scope and quality of the project need not be reduced for the children attending those schools. Again, however, the Commissioner has no authority to require such a contribution. If resources—either cash or in-kind—are not available for this purpose, adjustments may have to be made either in the numbers of private school children participating in the project, or in the activities provided to those children.

Section 134.50 Use of funds—SEAs. (proposed Section 134.51)

Comment. Three commenters interpreted proposed § 134.51(a)(1)(ii) to mean that of the total State allotments for Parts B, C, and D, 15 percent was to be used for strengthening the SEAs and 7.5 percent for State leadership in guidance, counseling, and testing.

Response. A change has been made. The proposed regulations refer to those sections of the statute that authorize the use of funds for stengthening the SEA (sec. 404(a)(9)) and State leadership in guidance, counseling, and testing (sec. 441(b)). Section 404(a)(9) limits the amount of funds for State strengthening to 15 percent of the Part C allocation; similarly, section 441(b) limits the funds for State leadership activities in guidance, counseling, and testing to 7.5 percent of the Part D allocation. However, for clarity, the regulations have been changed to read as follows:

"* * * the SEA shall exclude from the amount made available to LEAs any amount of Part C funds to be expended for strengthening the SEA or of Part D funds to be expended for State leadership in guidance, counseling, and testing."

Comment. One commenter asked whether the requirement in proposed § 134.51(a)(1)(ii) that the SEA make all remaining funds available to LEAs, after reserving an amount for administration, would preclude the "carryover" of program funds.

Response. No change has been made. The intent of this rule is merely to distinguish between the amount of funds the State is permitted to retain for administrative purposes and the amount of funds that must be subgranted to LEAs for projects. It does not affect the provisions of subpart G, EDGAR, pertaining to the "carryover" of Title IV funds.

Section 134.52 Use of funds—Departments of Defense and the Interior. (proposed Section 134.51(j))

Comment. A commenter stated that the requirement of proposed § 134.51(j)—that the Departments of the Interior and Defense use a substantial amount of their grants for children with the greatest educational need—was not required by the statute and should not be included as a regulatory requirement.

Response. A change has been made. This requirement now applies only to Part B of Title IV, and Part D of Title IV when the grant is distributed on a formula basis. The Departments are unable to comply with the tax effort and high cost child factors.

Section 134.53 Use of Part C funds—SEAs, Insular Areas, and Departments of Defense and the Interior. (proposed Section 134.51)

Comment. A commenter asked why there was no reference in the proposed regulations to the new requirements regarding the expenditure of certain set-asides of Part C funds on projects for improving school management and compensatory education.

Response. A change has been made. Section 134.53(c) includes a reference to the expenditure of Part C funds to improve school management and encourage innovation and improvement in compensatory educational efforts.

Comment. One commenter recommended that the 15 percent set-aside for handicapped students under Part C should be reassessed in light of the requirements of Pub. L. 94–142 and programs in some States which provide funds to LEAs for educating handicapped children.

Response. No change has been made. The 15 percent set-aside of Part C funds for handicapped children is required by section 432(c).

Comment. One commenter objected to the wording of the requirement in proposed § 134.51(e)(2) concerning the use of Part C funds for the handicapped. The commenter said that the use of "may" suggests that the 15 percent is optional rather than mandatory.

Response. A change has been made in § 134.53(c)(3). "Shall" has been substituted for "may."

Section 134.54 Use of Part C funds—supplementing Part C subgrants. (proposed Section 134.51(f))

Comment. One commenter recommended that proposed § 134.51(f)(2), (3), and (4) be deleted because SEAs should have the flexibility, once a project has been selected through a competitive process, to adjust the amount of the grant without going through another competitive process.

Response. No change has been made. Section 404(a)(5) of the Act requires SEAs to assure that all the Part C funds they receive will be distributed among LEAs on an equitable, competitive basis. This requirement applies to all Part C funds made available to LEAs, whether as a part of an initial grant or a supplement to it.

Comment. One commenter suggested that proposed § 134.51(f)(5) be strengthened to assure the SEAs understand that supplemental Part C funds may be awarded to conduct activities within the scope of the approved application.

Response. No change has been made. Sections 134.54 (a) and (b) clearly state that SEAs may supplement Part C subgrants. However, § 134.54(e) prevents a State from awarding supplementary Part C funds to an LEA to enable it to conduct activities outside the scope of its approved application.

Comment. A number of commenters opposed the restriction of funds for Statewide dissemination in proposed § 134.51 (h) to (1) administrative funds, authorized by section 404(a)(8) of the Act, (2) funds for State strenghtening authorized by section 404(a)(9), or (3) funds for State leadership in guidance, counseling, and testing, authorized by section 441(b), as it failed to consider the use of State funds.

Response. A change has been made. The subsection has been deleted. It was, of course, not the intent of that provision to regulate with respect to the SEA's use of State funds. An SEA may also use Title IV funds to disseminate information about educational practices to the extent permitted by section 404(a)(8) (or section 510 of Title V, ESEA), 404(a)(9) (or section 523 of Title V, ESEA) or section 441(b) of the Act.

Section 134.55 Use of Part D funds—SEAs, Insular Areas, and Departments of Defense and the Interior. (proposed section 134.51(i))

Comment. One commenter asked whether proposed § 134.51(i) prohibits the use of Part D funds to supplant State mandated programs.

Response. No change has been made. Section 134.55(c) does not address supplanting. The provision does, however, explain the type of competition an SEA may conduct for Part D projects. Under Part C, the SEA may establish priorities among the statutory program purposes and may evaluate LEA project applications in terms of these priorities. In contrast, under Part D the State may not establish priorities among the program purposes described in section 441(a)(2), but must give LEAs complete discretion in determining which Part D purposes they wish to address. Consequently the Part D competition must be judged solely on the basis of the qualitative aspects of the proposed projects, for example, the quality of the needs assessment, staff, evaluation procedures, and the likelihood of project success.

Section 134.56 Use of Part B funds—LEAs. (proposed section 134.52)

Comment. A commenter stated that proposed § 134.52(b)(2) of the regulations does not make clear if the additional funds generated by "high cost" children under section 422(a)(2) of the Act may be spent at the discretion of the LEA.

Response. No change has been made. Section 134.56(a) of the regulations does clarify that LEAs have complete discretion (subject to the provisions of section 406 of the Act regarding the participation of private school children) in determining how all funds they receive under Part B will be divided among the Part B program purposes. This includes the additional funds received by LEAs because of the enrollment of large numbers or percentages of children whose education imposes a higher than average cost. Section 134.56(c) requires merely that the LEA receiving the higher per pupil allocations consider the special educational needs of those children when selecting instructional materials and equipment.

Comment. Two commenters expressed concern that proposed § 134.52(b)(2) implied that any additional funds allotted to an LEA because of the presence of "high cost" children must be spent in the school buildings attended by these children. These commenters referred to House Report No. 95–1137, 95th Cong., 2d Sess. which stated (at 66) that such a requirement exceeded the law and imposed a paperwork burden on these LEAs.

Response. No change has been made. There is no intent to require that the additional Part B funds received by an LEA because it enrolls a large number or percentage of "high cost" children be spent solely for the benefit of these children. The regulations merely provide that the special educational needs of these children shall be *considered* when the selection of materials and equipment to be bought with the "higher per pupil allocation" earned by the presence of "high cost" children is made.

Section 134.57 Use of Part C funds—LEAs. (proposed section 134.52)

Comment. A large number of commenters objected to provisions of the proposed regulations which limited an LEA's use of Part C funds to disseminate information and provide technical assistance outside its boundaries to no more than 25 percent of the LEA's subgrant during the project's last two years of Part C funding. In addition, some commenters objected to interpreting section 431(a) of the Act to the effect that Part C funds may be used solely to improve the subgrantee's own educational practices. Many commenters did, however, express support for the requirement that the SEA determine the success and worth of an LEA's Part C project activities before allowing that LEA to disseminate information and provide technical assistance outside its boundaries.

Response. A change has been made. The limitations upon an LEA's use of Part C funds to demonstrate its Part C project for the benefit of children enrolled in schools outside its boundaries have been rewritten. The provision of the proposed regulations that restricted this use of Part C funds to 25 percent of the LEA's Part C subgrant during the last two years of its project has been deleted. Under these final regulations, an SEA may award Part C funds to an LEA for demonstration of its project outside its boundaries when the SEA determines that the prerequisites contained in § 134.57(c) have been met. In addition, these final regulations prescribe the criteria by which the SEA determines the amount of Part C funds it is appropriate to devote to this type of demonstration, subject to the "ceiling" imposed by § 134.57(d).

The Commissioner believes these final regulations implement more purposefully and flexibly the statutory emphasis upon meeting the educational

needs the LEA identifies within its own boundaries. The purpose of the Part C program is "to provide assistance to local educational agencies within the State for activities that will improve the educational practices of those agencies." This language, enacted by the 1978 Education Amendments, emphasizes and clarifies what has been the traditional understanding of the Part C program and its predecessors—that it is primarily intended to improve the educational practices of the LEAs that receive the subgrants.

This understanding is reflected elsewhere in the statute. It is found, for example, in section 435(b)(3)(D) of the GEPA (and section 501(b)(3)(D) of Title V, ESEA) which makes it the SEA's administrative responsibility to disseminate information about successful educational practices, in section 521(7) of Title V–B, ESEA (Strengthening State Educational Agency Management) which authorizes the use of State strengthening funds for essentially the same purposes, and in section 406 of the Act, which, in establishing the right of children attending private elementary and secondary schools to participate equitably in the Title IV program, does so in terms of the number and needs of the children enrolled in schools within the boundaries of the LEA that receives the subgrant.

On the other hand, section 431 of the Act specifically authorizes the use of Part C funds by an LEA to "demonstrate" its Part C project activities—presumably to the benefit of children in other LEAs. Accordingly § 134.57(a) of these regulations indicates that it is the primary but not exclusive purpose of Part C funds to improve the educational practices of the LEAs that receive the subgrants. In addition § 134.57(c) of these regulations clarifies the relationship between an LEA's authority to demonstrate its Part C project outside its boundaries and the SEA's underlying responsibility to disseminate information about successful educational practices. The basic requirement that before an SEA awards Part C funds to an LEA for "demonstration" outside its boundaries, the SEA must determine that the educational practice developed or adopted with Part C funds is successful and warrants wider circulation, has been retained.

Comment. A number of commenters stated that the provisions of this section would prohibit the support of "facilitators" with Title IV–C program funds. One commenter asked, in effect, whether these provisions could be avoided by the practice of awarding subgrants to large groups of LEAs, such as consortia.

Response. No change has been made, although the restrictions upon the use of Part C funds by LEAs to disseminate information about educational practices and provide technical assistance outside their boundaries have been rewritten.

A facilitator is commonly understood to be an entity whose purpose is to aid school districts by informing them of the existence of educational practices developed elsewhere, and then, if a school district wishes to adopt one of the educational practices of which it has learned, providing technical assistance. Customarily the facilitator neither develops nor adopts educational practices on its own. Instead it circulates written information and conducts meetings to disseminate information about educational practices developed elsewhere. In essence, a facilitator functions as a "clearinghouse" of information about existing educational projects for the benefit of other school districts that are potentially interested in adopting their practices.

In enacting the 1978 Education Amendments, Congress has clarified the traditional understanding of the Title IV program that this clearinghouse function is the responsibility of the SEA, while Part C funds are to be used by LEAs to improve their own educational practices through the development or adoption of educational practices that address their particular educational needs. For example, section 435(b)(3)(D) of GEPA (as well as section 501(b)(3)(D) of Title V, ESEA), explains that in administering the Title IV program the SEA is required to "disseminat[e] throughout the State" information about "successful [educational] practices."

In addition, an SEA is expressly permitted to "disseminat[e] information concerning effective educational practices" with the funds it receives under the Title V–B ESEA program (Strengthening State Educational Agency Management). (Section 521(7)). At the same time, the express purpose of the Part C program is "to provide assistance to local educational agencies * * * for activities that will improve the educational practices of those agencies." (Section 431(a)). Consequently the final regulations prohibit the use of Part C funds solely to support this clearinghouse function.

However, the Title IV statute does specifically authorize the use of Part C funds by LEAs to "demonstrate" (to other LEAs) the educational practices they have adopted or developed with Part C funds. To some extent this authority to demonstrate successful Title IV–C projects—usually considered to include the circulation of information and the provision of technical assistance concerning the project—overlaps the SEA's statutory obligation to function as a clearinghouse. Because of this overlap it is necessary for the regulations to define with some precision exactly what things an LEA can do with Part C funds to "demonstrate" its project to other LEAs within the State, and when it is permissible to do them. Sections 134.57 (b) and (c) accomplish this in a reasonable and flexible manner.

Because consortia of LEAs are authorized to apply for Part C subgrants, as are "intermediate units" to the extent permitted by the statutory definition of "local educational agency," the possibility of widespread avoidance of the limitations upon demonstration with Part C funds imposed by § 134.57 was clear. Therefore it was necessary to add § 134.57(e) to eliminate this particualr problem. Consortia and intermediate units, of course, may apply for and receive subgrants to develop or adopt—and then demonstrate outside their boundaries to the extent permitted by § 134.57(b)—educational practices suited to the needs they identify within their boundaries.

Finally, it is important to note the limitations imposed upon "demonstration" by § 134.57 apply only to activities conducted with Part C funds for the benefit of children enrolled in schools outside the LEA. These regulations impose no restrictions upon similar uses of Part C funds for the benefit of children enrolled in schools within the LEA's boundaries.

Comment. Several commenters stated that prohibiting the use of part C funds to provide training outside the State will result in LEAs being unable to adopt programs developed in other States.

Response. No change has been made. Section 431(a) states that it is the purpose of Part C "to provide assistance to local educational agencies *within the State* for activities that will improve the educational practices of those agencies. (Italic added.) Thus an SEA may not award a subgrant of Part C funds to an LEA to enable it to conduct activities for the benefit of persons outside the State in which it is located. However, the statute and regulations clearly do not prohibit interstate adoption of successful educational practices.

For example, an LEA in one State that receives a part C subgrant from its SEA to adopt an educational practice developed in another State could enter into a contract with the developers of that practice for the purpose of

obtaining their assistance in adopting the project.

Comment. One commenter said that this provision would preclude an LEA that has developed a successful educational practice with its own funds from receiving Part C funds solely to disseminate information or provide technical assistance concerning those practices to other LEAs.

Response. No change has been made. Section 134.57(b) of these regulations explains that Part C funds may be used by an LEA to disseminate information and provide technical assistance to other LEAs within the State only in connection with the educational practices it has either developed or adopted with Part C funds. As explained above, the purpose of the Part C funds is primarily to improve the educational practices of those LEAs that compete for and receive subgrants—and the SEA retains the basic responsibility to disseminate information about successful educational practices on a Statewide basis. In the instance posed by the commenter, the LEA's Part C project clearly would not primarily benefit the LEA itself.

It should also be noted that this interpretation is consistent with the view expressed above that while the statute permits the demonstration of a project and its associated educational practices outside the LEA, demonstration is not itself an "activity" within the meaning of the statute, and cannot alone constitute a project.

Section 134.59 Allowable costs—Part B. (Proposed section 134.53)

Comment. A number of commenters objected to the requirement that LEAs negotiate with their SEA a special indirect rate for Part B because doing so would be burdensome. One commenter felt that there was no basis in law for this provision and that the administrative costs of purchasing equipment and materials were not burdensome. Many commenters felt that the prior practice of charging the costs of ordering, processing, cataloging, and delivery of materials and equipment directly to Part B was a simpler administrative procedure. Two commenters said that the application of an indirect cost rate needs to be clarified for Part B; another commenter suggested that the indirect cost rate for Part B should be the same as for other Federal programs. Still other commenters suggested using the special indirect cost rate only where special circumstances justify it, for example, in large LEAs that have a large number of participating schools within their boundaries. Two commenters supported the proposed regulation.

Response. No change has been made. "Acquisition," as defined in 45 CFR Part 100c of EDGAR, includes the costs to LEAs of processing, cataloging, and delivery. Thus, the costs of cataloging, processing, and delivery to the first point of use are allowable as direct costs. When requested by LEAs, SEAs must approve a special indirect cost rate for their use for Part B. This requirement is imposed by 45 CFR Part 74, *Administration of Grants.* SEAs may obtain information for negotiating these rates from the Director, Regional Administrative Support Center (RASC) in each of the ten HEW Regional Offices.

Comment. A commenter asked why it was necessary to mention raw or processed materials or component parts that are to be made into finished products—either equipment or materials. Another commenter questioned the eligibility of component parts of *equipment* to be made into finished products as well as the costs of making and assembling equipment.

Response. No change has been made. Under the predecessor programs to Title IV–B, grantees were permitted to acquire raw or processed materials or component parts to be made into finished products for instruction in the academic subjects. (See *Response* under *Definitions*). The legislative history surrounding Pub. L. 95–561 does not indicate that Congress sought to alter this practice.

Section 134.62 Evaluation by the State. (Proposed section 134.62(a))

Comment. One commenter stated that proposed § 134.62(a) which described the purposes of the SEA's evaluation of Title IV was too broadly stated and should specifically refer to the Title IV statute and the Title IV State plan.

Response. A change has been made. The provisions dealing with the SEA's evaluation have been changed to specify that an SEA's determinations regarding the extent to which educational needs are being met and the performance of administrative activities are to be made in the context of its State plan. Determinations regarding the conduct and results of local projects are also to be framed by the State plan contents. Furthermore, these latter determinations have been limited to Part C projects only.

Comment. One commenter wondered whether the requirement that the SEA evaluate the extent to which Part C funds are being used for various program activites authorized under the Act would be met by describing the amount of Part C funds used for each of these activities.

Response. No change has been made. The requirement would be satisfied by a description of the amount of Part C funds used for various project activities.

Section 134.63 Evaluation by the State advisory council. (Proposed Section 134.62(b))

Comment. Two commenters suggested that the required components of the State advisory council's evaluation report be eliminated. These commenters said that the content of the evaluation should be left to the discretion of the advisory council.

Response. No change has been made. Section 404(b)(1)(C) of the Act requires State advisory councils to "evaluate all programs and projects" assisted under Title IV. Section 404(b)(1)(D) requires State advisory councils to, among other things, report the results of its evaluation to the Commissioner at least every third year. To aid the State advisory councils in complying with these generally worded statutory provisions, the Commissioner has identified the minimum requirements of a useful evaluation report. The Commissioner does not believe that these basic requirements will prove burdensome or force State advisory councils into any particular evaluative approach or format.

Comment. One commenter said proposed § 134.62(b)(5) implied that a Title IV–C project must be incorporated throughout the LEA and asked that this provision be deleted.

Response. No change has been made. Adoption throughout the LEA of the educational practices associated with a particular Title IV–C project is not only a good measure of the success of a project but is one of the purposes of the Title IV–C program. In any event, § 134.63(e) merely requires the advisory council to consider—as part of its evaluation—the extent to which the Part C project has been incorporated throughout the LEA.

Comment. One commenter questioned whether the evaluation requirement referred to in proposed § 134.62(b)(5), namely, the need for the State advisory council to evaluate the extent to which the educational practices associated with a project have been incorporated throughout the LEA, applies to one year Part C projects.

Response. No change has been made. The requirement applies to all Part C projects, including one year projects, although it is expected that the extent to which practices are incorporated throughout the LEA may vary with the length of Part C projects.

Section 134.64 Standards for Part B. (proposed Section 134.63)

Comment. One commenter inquired whether the standards developed for part B must identify all eligible instructional equipment in order to assure that such equipment is used "solely for instructional purposes." Another commenter suggested that proposed § 134.63 be amended by adding to the term "instructional equipment" the following phrase: "in academic subjects."

Response. No change has been made. The purpose of the standards is to insure that all equipment and materials acquired with Part B funds are of appropriate quality and quantity for instructional use and are used solely for instructional purposes. However, it is not necessary to have a specific standard for each type of eligible equipment.

For example, with respect to the acquisition of equipment, the term "standards" might include general criteria, categories of eligible equipment, or any other relevant information the SEA wishes LEAs to use in making an appropriate selection of equipment for a specific instructional program. The phrase "in academic subjects" is not added because the term "instructional equipment" is defined, in part, as "equipment that is appropriate for use in providing education in academic subjects."

Section 134.65 Consultation procedures, Part B. (proposed Section 134.64)

Comment. One commenter objected to the use of the terms "librarian" and "media specialist" in proposed § 134.64(b) and suggested instead the terms "school librarians and/or media specialists." One commenter suggested that the following sentence be added to this paragraph: "This periodic consultation must take place prior to selection or purchase of any instructional equipment or materials with Part B funds."

Response. A change has been made. The terminology used in the regulations adheres to that of section 422(b) of the Act. Section 422(b) clearly indicates that the librarians and media specialists referred to are "professional staff in the schools." The change made clarifies that the required consultation with teachers, librarians, media specialists and other professional staff in the schools as well as private school officials must occur before decisions are made about the expenditure of Part B funds.

Section 134.68 Part C projects for the education of handicapped children; requirements under Part B of the Education of the Handicapped Act (EHA). (Proposed Section 134.67)

Comment. Two commenters suggested deleting proposed § 134.67(a)(1) to eliminate the possibility of dual administration at the State level.

Response. No change has been made. This provision is required by section 612(6) of EHA.

Comment. One commenter suggested that the Title IV–C funds for handicapped children be withheld only when Title IV–C funds are involved with the aspect of the handicapped annual program plan that is not in compliance.

Response. No change has been made. Section 616(a) of the "Education of the Handicapped Act" does not so limit the Commissioner's discretionary authority to withhold Part C funds available for projects for handicapped children.

Subpart H—Participation of Children Enrolled in Private Schools

General.

Comment. One commenter suggested that the regulations be revised to require each State to incorporate into its State plan assurances that the private schools are given an opportunity equal to that of the public schools for participation in Part C and D projects. The commenter said this would alleviate the problem associated with conducting a funding competition for Part C and D projects when project applications describe different project activities for public and private school children.

Response. No change has been made. Private schools are not eligible to apply for Title IV benefits. In accordance with the requirements of section 404(a)(3) of the Act, States do make an assurance in their State plans that private school children will be provided equitable opportunities to participate in the purposes and benefits of Title IV. In addition, the beneficiaries of Title IV are children enrolled in schools within the boundaries of the LEA applying for program funds, not the schools themselves. The agency charged with the responsibility for providing these benefits on an equitable basis to both public and private school children is the LEA.

Comment. One commenter expressed concern over the failure of the proposed regulations to guarantee continuity of services to private school children.

Response. No change has been made. The regulations implement the statutory requirement that children attending private schools be afforded the opportunity to participate equitably in the purposes and benefits of Title IV. This requirement includes the right to participate in the planning of Title IV projects. The need of project participants—whether they attend public or private schools—for the continuation of program services is best addressed at the local level, where projects are planned.

Comment. One commenter requested that private schools enrolling participating children be required to repair the instructional equipment that is acquired with Title IV funds and that the LEA places on their premises, rather than returning it to the LEA for repair.

Response. No change has been made. The Commissioner lacks the authority to require private schools enrolling participating children to bear the cost of repairing instructional equipment.

Comment. One commenter pointed out that requiring small LEAs to provide services for private school children such as planning, purchasing, inventorying, and maintaining equipment may cost more than the dollars being requested.

Response. No change has been made. With respect to Part B, the costs of processing, cataloging, and delivery are allowable costs. Also, the LEA may request the SEA to approve a special indirect cost rate which will permit the recovery of the cost of procurement from Part B funds. Indirect costs are allowable charges to Part C and D subgrants, provided the SEA has approved the rates.

Comment. One commenter asked whether SEAs and LEAs were required to consult with representatives of children attending schools—such as private schools—that do not meet State standards, and, further, whether a State could obtain a waiver of the private school participation requirements so that it would not be necessary to deal with those schools that do not meet those State standards.

Response. No change has been made. However, States may exclude from participation in the Title IV program children that attend schools that do not meet appropriate State standards (for the purpose of compulsory attendance laws, for example).

Section 134.70 Responsibilities.

Comment. A commenter suggested that § 134.70 be expanded to include a private school's responsibility for maintenance of effort, preparing an application form, and providing information and appropriate assurances relating to Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973.

Response. No change has been made. Under section 404(a)(7) of the Act, compliance with the maintenance of effort requirement is determined on the basis of total State expenditures for program purposes. There is no requirement that individual private schools maintain their effort although in certain circumstances the children attending a private school that has not maintained its effort may be excluded from participation in the Title IV program. See § 134.12(e)(2).

A private school has no responsibility to complete an application form. LEAs are the only eligible applicants. It is assumed that the representative of private school children will readily provide whatever information is necessary to provide equitable benefits for those children.

EDGAR (45 CFR 100b.500) describes the nondiscrimination provisions applicable to States and LEAs participating in Title IV programs. The application of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973 to private institutions is governed by the regulations that implement those statutes, 45 CFR Parts 80, 84 and 86 respectively. However, because they are not recipients of Federal funds, private schools are not required to complete HEW Form 441.

Comment. One commenter said § 134.70(c) did not convey the statutory right of private school children to participate equitably, and suggested using the word "provide."

Response. A change has been made. The first sentence of § 134.70(c)(1) reads "An LEA shall provide children enrolled in the private schools within its boundaries genuine opportunities to participate in Title IV projects."

Section 134.71 Consultation with representatives of private school students.

Comment. Several commenters objected to the requirement in § 134.71(b) that the LEA consult with appropriate private school officials concerning whether the LEA will participate in a Title IV program. They said that the decision to participate in the Title IV program is solely the LEA's.

Response. A change has been made. As revised, paragraph (a) provides that appropriate representatives of private school children are to be consulted during all phases of the development and design of the project. The list of examples does not include decisions to participate or not to participate since it would be too difficult to determine when those "decisions" are made. The emphasis should be on early and comprehensive consultation, so that appropriate representatives have a fair opportunity for involvement in the development and design of the project.

Section 134.73 Benefits.

Comment. One commenter said that it is very difficult to serve equitably children attending private schools located on the opposite side of a large urban LEA if the LEA's Part C project is concentrated in a single public school. Therefore, the commenter suggested that § 134.73(a) be modified by changing "within its boundaries" to "within the attendance area of affected LEA schools" and adding "if the private schools choose to particpate."

Response. No change has been made. Section 134.73(a) implements the requirements of section 406 of the Act. Section 406(b) states that if Part C funds are used to "concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within that group, attendance area, or grade or age level * * * shall * * * be assured equitable participation in the purposes and benefits of such programs or projects." Therefore, if, after consultation with the representatives of the children attending private schools within the LEA, the LEA determines that it will concentrate its Part C project upon a particular group, attendance area, age or grade, the private school children within that particular sphere of concentration are entitled to participate in the project on an equitable basis. In essence, this rule is stated in § 134.73(b).

However, in some instances, the design of the LEA's project, including the group of children selected to participate in it, may not correspond with the educational needs of the children attending private schools within its boundaries.

For example, the LEA may wish to provide with Part C funds a science project for secondary school students, but there are no private secondary schools within the LEA; or the LEA may wish to provide a supplementary reading project for 4th grade students, but the need of the students attending the 4th grade in private schools is instead supplementary math instruction. In instances such as these, the LEA shall, as part of its project, provide to the private school children who are selected to participate in the project different benefits than those provided to the public school children, as long as the differences are necessary to meet the educational needs of the participating private school children. This rule is stated in § 134.73(c).

Comment. One commenter said that § 134.73(b)(1) should be modified because the statute does not require that the private school children within the particular group or area of concentration have the same needs as the public school children.

Response. No change has been made. The Title IV program is intended to address the educational needs of children attending elementary and secondary schools whether they be public or private. Section 134.73(b) and (c) clarify that when the needs of the participating public and private school children are the same, Title IV benefits must be equitably available to the similar types of students. On the other hand if the educational needs of the participating public and private school children are different, it is presumed that the Title IV benefits will also be different. Section 134.73(b)(1) is needed to clarify that an LEA is not required to provide the same Title IV benefits to public and private school children even though superficially they are similar because they are both within the same area or group of concentration, if their educational needs are dissimilar.

Comment. One commenter suggested that the wording of paragraph (b) implied that only those private school children who have the same needs as public school children are eligible to participate in Part B.

Response. No change has been made. Section 134.73(b) provides that if an LEA concentrates Title IV funds on a particular group, attendance area, or grade or age level, the LEA will provide equitable benefits to those children enrolled in private schools who (1) belong to the same group, attendance area, grade or age level, and (2) exhibit the same educational needs as the public school children served by the project.

On the other hand, § 134.73(c) provides that if the private school children selected to participate in the LEA's project exhibit educational needs different from those of the participating public school children, the LEA must accommodate those different needs by providing different benefits. These different benefits must be comparable in quality, scope and opportunity for participation to those provided for children enrolled in public schools. The section has been reorganized to highlight these requirements.

Comment. One commenter objected to the requirement that a Part C project provide benefits for children attending nonpublic schools who have different

needs than the children for whom the project was initially planned.

Response. No change has been made. The Title IV statute and regulations require the LEA to consult with the appropriate representatives of the children enrolled in the private schools within its boundaries regarding the design of the Part C project, what needs it will address, and what children will participate. It is hoped that this consultation will result in a proposed set of project activities that meet the educational needs of participating children, whether they attend public or private schools, equally well. However, if after this consultation it appears that the participating private school children have different educational needs, and it is necessary to provide them different benefits to meet those needs, the LEA shall provide them benefits different than those it provides to the participating public school children.

Comment. Several commenters said that a Part C application which addressed different educational needs for public and private school children would not survive the competitive review process and would be pointless to develop.

Response. No change has been made. As indicated in response to other comments, the requirements for serving the needs of participating private school children, even where they differ from those of public school children, is required by the statute. The commenter's concern, however, underlines the importance of early consultation and cooperative planning with the representatives of the children attending private schools within the LEA. It is hoped that this type of consultation and planning will usually eliminate the need to address different educational needs within the same project.

However, in some cases differing educational needs may necessitate different program benefits or components—and the LEA must assume responsbility for the quality of all aspects of the project. Similarly, the SEA evaluation process must deal with the project as a whole, not with the separate components.

The Commissioner recognizes that these basic principles may be difficult to apply in particular cases, and is prepared to offer assistance in applying them on a case-by-case basis.

Comment. One commenter objected to the apparent requirement of proposed § 134.73(c)(1) that the appropriate representatives of children enrolled in private schools located within an LEA that does not participate in Part B "request" the SEA to make an arrangement for the benefit of those children. Another commenter said the regulations should prescribe the procedures by which those representatives request Part B benefits.

Response. A change has been made. The proposed regulations were not intended to require a formal request for participation in the Title IV–B program from the representatives of the private school children who desire to participate. Under section 406(a)(2) of the Act children attending private schools in an LEA that does not participate in part B have a right to participate in that program. Effective exercise of this statutory right, of course, presumes that the appropriate representatives of these children are aware of it, and this is the SEA's responsibility. For clarification, the language referring to a "request" has been deleted.

The final regulations do not prescribe detailed administrative procedures for implementing a Title IV–B project for private school children in an LEA that does not participate. It will be necessary, of course, for the SEA to maintain continuing administrative direction and control over the Part B benefits provided to these children. (§ 134.70(b)). However, the Commissioner believes that additional and possibly restrictive regulations in this area are not warranted.

Comment. One commenter said that proposed § 134.73(c)(2) of the regulations did not clearly explain the amount of Part B funds available, under section 406(a)(2) of the Act, to children attending a private school in an LEA that does not participate.

Response. No change has been made. Title IV funds are not identifiable as funds for public school children on the one hand, and funds for private school children on the other. Title IV funds are made available to LEAs, on the basis of student enrollment, for projects to benefit elementary and secondary school children, both public and private.

Section 406(b) of the Act establishes the principle that when both public and private school children are participating in the LEA's project, expenditures will be equal considering the number of children served and their respective needs. Section 406(b), however, does not prohibit an LEA from conducting a project even though no eligible private school children choose to participate. Similarly, section 406(b) does not prevent an SEA from making an arrangement under section 406(a)(2) to provide part B benefits to private school children within an LEA even though no public school children are participating in the Part B program.

It is neither feasible nor desirable to prescribe inflexible rules to govern the allocation of Title IV–B funds in those instances in which only public or only private school children will receive program benefits. It is expected that in those instances, the funds allocated to the LEA will be used prudently to meet the identified educational needs of the children participating in the project. Certainly, in those cases where public school children or private school children are not participating in a project, it might be appropriate for the SEA to reallocate excess program funds to other LEAs under § 134.42 of these regulations.

Comment. Several commenters objected to proposed § 134.73(d) which provides, briefly, that children attending a private school may participate in a Part C or D project only if the LEA in which that private school is located is participating and children attending a public school within that LEA are also receiving Part C or D benefits respectively. They said that section 406(a)(2) of the statute (which requires an SEA to arrange for the provision of Part B benefits to children attending a private school who desire to participate in the Part B program even if the LEA in which their school is located does not) should not be read to prohibit an LEA or an SEA from providing Part C or D benefits to private school children even if the public school children in that LEA do not receive them. One commenter observed that section 406(a) requires LEAs that are "eligible to receive Title IV funds" to provide equitably for private school children. Another argued that the "equal expenditure" requirement of section 406(b) of the statute seemed to apply even though public school children were not participating in the program.

Response. No change has been made. Like other State-administered Federal elementary and secondary education programs, the Title IV program is conducted on a subgrant basis. In the Title IV program only LEAs may be subgrantees. Apart from the exceptions posed by section 406(a)(2) of the Act, and § 134.82(a)(2), of these regulations, an SEA has no authority to provide a Part B, C, or D benefit to students except by making a subgrant to an LEA. And except as specifically authorized by the Title IV statute, an SEA or LEA may not depart from these limitations by acting as a "conduit" for some other agency or group of students.

No LEA is required to participate in the Title IV program. Those that choose to do so submit an application to the SEA for its approval. Thus, while any

LEA is eligible to participate in the various Title IV programs, only an LEA that submits an application that is approved by the SEA is "eligible to receive funds" within the meaning of section 406. Logically, an LEA that does not receive a subgrant of Title IV funds has no obligation to provide Title IV benefits to children attending private schools within its boundaries. The basic principle that LEAs provide equitably for children attending private schools—including the requirement of "equal expenditures"—applies only to those LEAs that do receive Title IV subgrants.

Finally, the language of section 406(a)(2) strongly suggests that with respect to the Part C and D programs, Congress did not intend to alter the well-established Title IV practice that private school children, along with public school children, participate in a project developed by the LEA in consultation with the representatives of those private school children. The legislative history to Pub. L. 95–561 amply documents that Congress was dissatisfied with the amount of participation of children attending private schools in the existing Title IV program. (Senate Report No. 95–856, 95th Cong., 2d Sess. at 52–53; House Report No. 95–1137, 95th Cong., 2d Sess. at 65–66.)

To remedy this problem, Congress enacted a new section 432(d), which essentially prohibits an SEA from approving an LEA's application under Part C unless the SEA can determine that in designing the project the needs of private school children have been taken into account, and section 406(a)(2) which provides that: "If no program or project is carried out *under part B* (by an LEA), the State educational agency shall make arrangements * * * under which children in private schools in that LEA are provided with services and materials *under that part* to the extent that would have occurred if the LEA had received funds under this title." (Emphasis added.) Therefore, it seems clear that Congress intended to depart from the well-established Title IV practices with respect to serving private school children in connection with the Part B program only.

Comment. One commenter, objecting to the requirements of proposed paragraph (d) that there must be public school participation in order for private school children to receive Part C or D benefits, suggested that intermediate units, such as county school districts, act as the fiscal agent for addressing the needs of private school children within its boundaries.

Response. No change has been made. The use of an intermediate unit as a "fiscal agent" would not be consistent with the statutory principles discussed in the preceding response. Assuming it satisfied the statutory definition of an LEA, of course, an intermediate unit may apply for and receive a grant to conduct a project for children attending schools, both public and private, within its own boundaries. In this case only the boundaries of the intermediate unit are relevant and, for example, an intermediate unit could conduct a Part C or D project in which public and private school children participate even though no public school children from the school district in which the private school is located do so.

Section 134.74 Expenditures

Comment. One commenter said that the requirement that the LEA spend the same average amount for public and private school participants in a project is at variance with the statute. This commenter said that section 406(b) of the Act requires expenditures for the private school children served by the project to be equal to expenditures for the public school children enrolled in the LEA.

Response. No change has been made. The statute and the regulations are not in conflict. Section 406(b) clearly states that the equality of expenditures between children enrolled in public schools and children enrolled in private schools is to be determined, among other things, in a manner "consistent with the number of children to be served [by the project]."

Comment. One commenter said that the proposed regulations emphasize the quantitative measure of benefits without considering the underlying equitable participation standard. It was recommended that a section be added which would provide that any differences in expenditures shall be designed to assure the equitable participation of private school children in the purposes and benefits of Title IV.

Response. No change has been made. The requirement of equal expenditures, considering the needs of individual participants and other factors, is statutory in nature and reflects the equitable participation standard. Other sections of these regulations, however, clearly establish the qualitative nature of this standard as well.

Section 134.75 Separate classes.

Comment. One commenter objected to this requirement because there could well be legitimate non-discriminatory reasons why separation of the classes based on school enrollment may be administratively justifiable and educationally sound.

Response: No change is made. The purpose of this requirement is to preclude the separation of project participants solely on the basis of school enrollment or religion.

Section 134.76 Funds not to benefit a private school.

Comment. One commenter suggested that proposed § 134.76(b) be deleted because it seemed to create a distinction between generalized and specialized needs which does not exist in title IV.

Response. No change has been made. Projects supported with Title IV funds must be designed to meet the specific educational needs of the group of students selected for participation in the program. The identification of needs and the selection of participants is accomplished by a needs assessment conducted by the LEA.

Comment. One commenter inquired if proposed § 134.76(b)(2) precluded using Title IV–B funds to acquire school library resources for the use of children attending a private school.

Response. No change has been made. Title IV–B funds may be used to acquire school library resources for the use of children attending a private school. However, those benefits must be selected on the basis that they meet the specific educational needs of the private school children chosen to participate in the LEA's project—and not the need of the private school, or the general needs of the children enrolled in it.

Section 134.77 Administrative control.

Comment. Two commenters objected to the requirements of proposed § 134.77(b). One recommended it be deleted, or "limited period of time" defined. A third commenter recommended that the entire section be deleted because it could be interpreted in a manner which would limit the participation of private school children.

Response. A change has been made. "Limited period of time" has been changed to "the period of time needed for the purpose of the project." Thus Title IV benefits may remain on the premises of a private school for as long as they are needed for the purposes for which they were acquired.

Comment. A commenter asked how the requirements of proposed § 134.77(b) regarding the placement of materials and equipment bought with Title IV funds on the premises of a private school for a limited period of time altered present practice. The commenter asked if it would be necessary to rotate books between children enrolled in public and private schools.

Response. The requirement does not change present practice. The return of

benefits to the LEA is not required as long as the benefits are needed on the premises of a private school for the purposes for which they were acquired.

Comment. One commenter said the provision requiring a public agency to maintain administrative control over equipment placed on the premises of private schools for the use of participating children should address the situation posed by the closing of a private school on the premises of which Title IV benefits have been placed.

Response. No change has been made. Section 134.70(c)(2) establishes that the LEA must exercise continuing administrative control over the Title IV materials and equipment that benefit children enrolled in private schools. Moreover, § 134.77(c) clearly requires that these materials and equipment be removed from the premises of the private school when no longer needed for the purposes of the program.

Section 134.80 Complaint procedures.

Comment. One commenter suggested that "complaint" be defined so that every critical inquiry regarding the participation of children attending a private school need not be considered a "complaint."

Response. No change has been made. To assist SEAs, the rule requires that the complaint be written, and that it include a detailed statement of the facts upon which the allegation is made. The Commissioner does not believe that further regulation with respect to the form or contents of complaints is warranted. Thus, while SEAs are not required to treat manifestly frivolous written comments as "complaints," this regulation prohibits SEAs from ignoring *bona fide* complaints because of alleged technical defects in format.

Section 134.81 Waiver of section 406.

Comment. One commenter objected to proposed § 134.81(b)(3) as exceeding the statutory authority of section 406 of the Act. This commenter pointed out that section 406(e)(2) authorizes the Commissioner—not the SEA—to withhold funds, and then only the amount estimated as necessary to provide equitable services to private school children.

Response. A change has been made. Section 134.81(b)(3) was not intended to authorize the SEA to withhold funds that it had already awarded to the LEA as a subgrant under an approved project application. While the Commissioner is authorized to do this under section 406(e)(2) of the Act, an SEA is not (except under Title V–A of the Act). Proposed § 134.81(b)(3) was intended to require the SEA to refrain from awarding additional funds—making new subgrants—to the LEA. Therefore, § 134.81(b)(3) has been changed to clarify that if an SEA believes that an LEA has substantially failed or is unwilling to provide equitably for private school children, the SEA must refrain from making additional subgrants to the LEA or approving project applications submitted by the LEA, pending action by the Commissioner.

Proposed Section 134.90 Withholding of funds; cease and desist order.

Comment. One commenter suggested that the discussion in House Report 95–1137, 95th Cong., 2d Sess., dealing with the misuse of Title IV–B funds in purchasing ineligible equipment should be included in the regulations with a statement that OE could withhold Title IV–B funds or issue a cease and desist order to an SEA or LEA in the event of non-compliance.

Response. A change has been made. In drafting these regulations, the Commissioner has interpreted the applicable statutory provisions in the light of their legislative history. However, the Commissioner does not believe it is appropriate to repeat that legislative history in the regulations themselves.

Regulations to implement the Commissioner's authority to withhold funds (section 453 of GEPA) and issue cease and desist orders (section 454 of GEPA) were published in the **Federal Register** on May 25, 1979 at 44 FR 30528. Proposed § 134.90 has been deleted in favor of those published May 25, 1979.

Section 134.91 Waivers of maintenance of effort. (proposed section 134.91)

Comment. A commenter objected to this section because it indicated that a waiver is effective for only one fiscal year and may not be repeated.

Response. No change has been made. Section 431A(b) of GEPA provides that the Commissioner may grant a waiver "for one fiscal year only." Both House Report No. 95–1137, 95th Cong., 2d Sess., and Senate Report No. 95–856, 95th Cong., 2d Sess. state that the waiver authority is "for a single fiscal year" (at 139 and 121, respectively). House Report No. 95–1753, 95th Cong., 2d Sess. refers to this provision as a "1-year waiver" (at 317).

Comment. A commenter asked several questions about the examples of exceptional and unforeseen circumstances included in proposed § 134.91 as those when a waiver of the maintenance of effort requirement may be appropriate: (1) What sort of activities would constitute a government action that would remove property from tax rolls? (2) Why was a strike of educational or service personnel included? (3) Why was an energy shortage included? The commenter inquired if these examples would apply to other programs, e.g., ESEA Title I, and how loosely they would be interpreted.

Response. The particular examples of exceptional and unforeseen circumstances reflect program experience and were, to the degree possible, considering program differences, coordinated with the Adult Education regulations, which is the only other program affected by section 431 of GEPA. ESEA Title I has a separate statutory maintenance of effort requirement. An example of government action that might remove property from the tax rolls would be a taking of land for a public purpose. A strike of educational personnel and an energy shortage are included as examples because they might justify a diversion of revenue, or a decrease of expenditures for program purposes. These provisions will be interpreted purposefully, on a case-by-case basis.

Comment. Two commenters noted that section 431A(b) of GEPA limits the Commissioner's authority to waive the maintenance of effort to those instances in which it would be equitable to do so in view of "exceptional *and* unforeeseen circumstances." (Emphasis added.)

Response. A change has been made. The error in proposed § 134.91 was inadvertent. Section 134.90 now reads: "Because of exceptional *and* unforseen circumstances. . . ." (Emphasis added.)

Comment. Two commenters suggested that the regulations permit an allowable percentage reduction of fiscal effort rather than requiring strict equality of expenditures (on either an aggregate or per pupil basis) during the preceding fiscal years.

Response. No change has been made. In enacting the Education Amendments of 1976, Pub. L. 94–482, Congress authorized States to take advantage of an allowable percentage reduction of 5 percent in complying with the maintenance of effort requirement. House Report No. 95–1137, 95th Cong., 2d Sess. at 139–40 demonstrates that Congress, in enacting the Education Amendments of 1978, Pub. L. 95–561, clearly intended to repeal any percentage reduction.

Comment. A commenter suggested that the phrase "a government action" be replaced by "a Federal government action such as the closing of a military installation."

Response. No change has been made. This paragraph refers to an unforeseen

substantial diminution of the tax base due to an action such as a "taking" of land by some governmental authority, including the Federal government, for a public purpose. Proposed section 134.91(b)(1), on the other hand, refers to the deliberate substantial reduction of revenue available for elementary and secondary education in other than emergency circumstances. This might include either a reduction in the education budget itself, or a reduction of the applicable tax rate.

Comment. Several commenters objected to the inclusion of "a deliberate substantial reduction of available revenue due to an act of a State or local legislature or electorate in other than emergency circumstances," as an example of circumstances the Commissioner does not consider exceptional and unforeseen.

Response. No change has been made. This paragraph merely implements section 431A of the GEPA in the manner intended by Congress. House Report No. 95–1137, 95th Cong., 2d Sess. and Senate Report No. 95–856, 95th Cong., 2d Sess., state: "The decision of a State or local legislature to slash the education budget would not in and of itself constitute a valid decrease of financial resources since this is a voluntary and controllable act; such a reduction is, in effect, a refusal to use revenue resources which are available." (at 139 and 121, respectively)

Comment. A commenter suggested that proposed § 134.91(a) include as an example of "exceptional and unforeseen circumstances" a one-time special appropriation by a State. This commenter observed that Congress did not intend to penalize a State for temporarily providing additional funds for education.

Response. A change has been made. A new § 134.90(a)(5) has been added to allow a waiver of the maintenance of effort requirement in the event of an extraordinary State or local appropriation to meet an unexpectedly acute educational need.

Comment. A commenter suggested that the section listing the circumstances which the Commissioner does not consider to be exceptional and unforeseen (proposed § 134.91(b)) be deleted.

Response. No change has been made. Section 134.90(b) provides examples of circumstances which the Commissioner does not consider to be exceptional and unforeseen and is intended to provide States with further information concerning waiver requests.

Appendix A

Comment. One commenter said that the State plan for ESEA Title IV did not include the requirement, in section 404(a)(11) of the Act, that the SEA explain how it will provide technical assistance to private school officials who desire to arrange for childen in those schools to participate in Federal elementary and secondary education programs.

Response. No change has been made. Section 134.10(a)(2) of the regulations states that "the State shall include in its plan the specific assurances and items of information listed in the appendix to this part." The requirement imposed by section 404(a)(11) of the Act is included as item (f) under the heading State Plan—General.

Comment. One commenter questioned the requirement, in item (g) under the heading State Plan—General, that Title IV officials in the SEAs be responsible for the coordination of all Federal and State funds for staff development when they have little actual authority to accomplish it.

Response. No change has been made. The requirement of a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State is statutory, section 404(a)(12) of the Act. However, neither the Act nor these regulations identify any particular group of SEA administrators as those responsible for developing or implementing the comprehensive plan. Additional guidance on the comprehensive plan can be found in the regulations implementing Title V of the Act, 45 CFR Part 119.

Comment. Three commenters suggested that States be permitted more flexibility regarding the due date for submission of the comprehensive plan for the coordination of funds for preservice and inservice education. Submission sometime during 1980 was suggested.

Response. No change has been made. States are permitted to submit the comprehensive plan in final form by June 30, 1980 in accordance with the regulations implementing Title V of the Act, 45 CFR Part 119.

Comment. Two commenters suggested that information be provided on how the Federal government will monitor States' implementation of their comprehensive plan for the coordination of funds for preservice and inservice education, required by section 404(a)(12).

Response. No change has been made. While it is expected that the States will derive benefit from developing their comprehensive plans, the Commissioner has no authority to regulate with respect to the States' compliance with their own plans developed under section 404(a)(12) of the Act.

Comment. Several commenters suggested that Federal funds be made available to assist States in the development of the comprehensive plan for preservice and inservice education.

Response. No change has been made. 45 CFR 119.10(c) clarifies that States may use their Title IV administrative funds or their Title V State strengthening funds to develop the comprehensive plan required by sections 404(a)(12) and 522(2) of the Act, so long as that activity is provided for in the appropriate State plan.

Comment. Two commenters suggested that all Federal categorical programs requiring a State plan should be linked to the State's comprehensive plan for preservice and inservice education and that States should be required to attach a copy of the comprehensive plan to each State plan they submit to the Commissioner.

Response. No change has been made. The Commissioner lacks the authority to impose this requirement.

Comment. Several commenters suggested that the regulations encourage the involvement of all interested and affected parties, including teachers, in the development of the comprehensive plan for preservice and inservice education.

Response. No change has been made. Resources that must be involved in the development of the plan are identified in section 404(a)(12) of the Act. This section clearly permits the States to involve other interested parties.

Comment. One commenter stated that the State plan assurances pertaining to the reservation of Title IV funds for handicapped children and for innovation and improvement in compensatory education are inappropriate because other programs are funded to meet these needs.

Response. No change has been made. Sections 431(b)(2) and 432(c) of the Act impose these requirements.

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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.)

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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

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FEDERAL COMMUNICATIONS COMMISSION

14214 3–5–80 / FM broadcast station in Staunton, Va.; changes made in table of assignments

PERSONNEL MANAGEMENT OFFICE

14835 3–7–80 / Requirements for apportionment of retirement benefits

TRANSPORTATION DEPARTMENT

Coast Guard—

15175 3–10–80 / COLREGS Demarcation Lines; movement of Boston Harbor entrance

VETERANS ADMINISTRATION

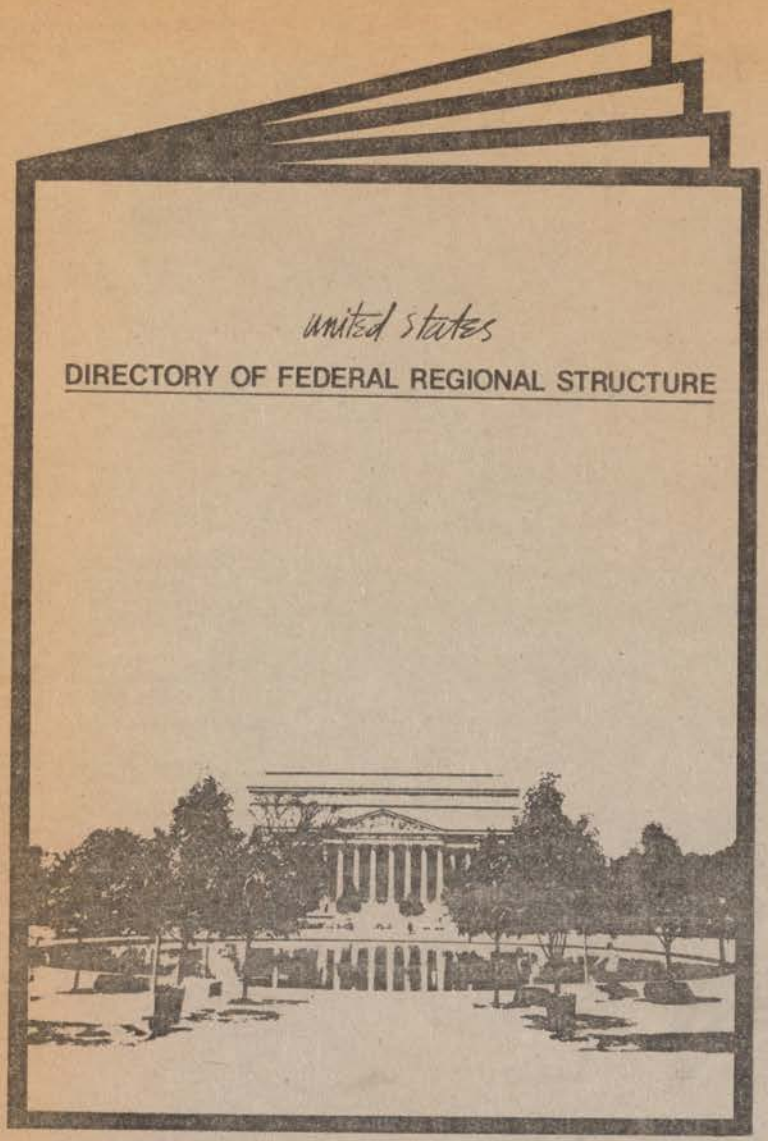
15930 3–12–80 / Procurement; contract clauses

List of Public Laws

Last Listing April 4, 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.J. Res. 463 / Pub. L. 96–224 Designating the week of October 5 through October 11, 1980, as "National Diabetes Week". (Apr. 2, 1980; 94 Stat. 309) Price $1.00.



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