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federal register

THURSDAY, MAY 12, 1977

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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	HEW/FDA			HEW/FDA

Documents normally scheduled 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.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-EA-25]

PART 71—DESIGNATION OF CONTROLLED AIRSPACE

Alteration of Transition Area: Allentown, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will extend the transition area by ½ mile so as to accommodate a revision to the instrument approach procedures for runway 6 at the Allentown-Bethlehem-Easton Airport. The revision requires a nominal amount of extra controlled airspace.

EFFECTIVE DATE: May 19, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York, 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Allentown, Pa., Transition Area. A revision to the runway 6 instrument procedures for Allentown-Bethlehem-Easton Airport require an additional ½ mile of controlled airspace.

Under the circumstances presented, the FAA concludes that the Rule is minor in nature and does not impose any evident additional burden on any person, but adds to air safety. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication.

DRAFTING INFORMATON

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective May 19, 1977, as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the description of the Allentown, Pa. 700-foot floor transition area by deleting "extending from the OM to 11 miles southwest of the OM;" and by inserting in lieu thereof, "extending from the OM to 11.5 miles southwest of the OM;".

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13555 Filed 5-11-77;8:45 am]

[Airspace Docket No. 77-EA-7]

PART 71—DESIGNATION OF CONTROLLED AIRSPACE

Designation of West Milford, N.J., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes controlled airspace (transition area) to provide protection to aircraft executing instrument approaches and departures for Greenwood Lake Airport, West Milford, N.J.

EFFECTIVE DATE: 0901 G.m.t. May 26, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area identified as West Milford, N.J. A NPRM was published in the FEDERAL REGISTER on February 14, 1977. (42 FR 9029).

Interested parties were given 30 days in which to submit comments on the proposal. There were no objections to the NPRM.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, Thomas C. Halloran, Esq., Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as proposed, effective 0901 G.m.t. May 26, 1977.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

1. Amend § 71.181 of Part 71, of the Federal Aviation Regulations by designating a West Milford, N.J., 700-foot floor transition area as follows:

WEST MILFORD, N.J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°07'45" N., 74°20'50" W., of Greenwood Lake Airport, West Milford, N.J.; within a 7-mile radius of the center of the airport, extending clockwise from a 154° bearing from the airport to a 217° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 217° bearing from the airport to a 318° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 318° bearing from the airport to a 079° bearing from the airport; within 2 miles each side of the Sparta, N.J. VORTAC 067° radial, extending from the 5-mile radius area to the VORTAC.

[FR Doc.77-13554 Filed 5-11-77;8:45 am]

[Airspace Docket No. 77-EA-29]

PART 71—DESIGNATION OF CONTROLLED AIRSPACE

Revocation of Transition Area: Wurtsboro, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will decontrol airspace in the Wurtsboro, N.Y., Terminal Area by revoking the transition area. The runway 5 instrument procedure has been cancelled as of March 31, 1977, thereby nullifying the need for the transition area.

EFFECTIVE DATE: May 19, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the designated Wurtsboro, N.Y., Transition Area. There is no longer any need for this controlled airspace.

Under the circumstances presented, the FAA concludes that this is a regulation which is relieving and creates no additional burden on any person. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective May 19, 1977, as follows:

1. Revoke the Wurtsboro, N.Y., Transition Area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13556 Filed 5-11-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7485]

PART 33—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE ACT OF OCTOBER 19, 1976

Constructive Filing of Waivers of Exemption From Social Security Taxes by Certain Tax-Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document provides temporary regulations relating to the constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations. Changes to the applicable tax law were made by the Act of October 19, 1976. These regulations affect certain tax-exempt organizations which have paid social security taxes without filing a certificate waiving their exemption from those taxes. In addition, the temporary regulations promulgated by this document serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

DATES: The temporary regulations are effective with respect to services performed after 1950, and the final regulations are proposed to be effective with respect to services performed after 1950. Written comments and requests for a public hearing must be delivered or mailed by June 27, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3926).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary regulations relating to constructive filing of waivers of exemption by certain tax-exempt organizations under section 3121(k) of the Internal Revenue Code of 1954, as amended by the Act of October 19, 1976 (Pub. Law 94-563, 90 Stat. 2655). These regulations add a new part 33, Temporary Employment Tax Regulations Under the Act of October 19, 1976, to title 26 of the Code of Federal Regulations. In addition, the regulations promulgated in this document are proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 31) under section 3121(k) of the Internal Revenue Code of 1954.

EXPLANATION OF PROVISIONS

The employees of certain tax-exempt organizations are excluded from social security coverage unless the employing organization files with the Internal Revenue Service a certificate waiving its exemption from social security taxes. Prior to the enactment of Pub. Law 94-563, a large number of tax-exempt organizations and their employees had been paying Federal Insurance Contributions Act (FICA) taxes without having filed certificates waiving their exemption from these taxes. The purpose of Pub. Law 94-563 was to validate the social security coverage of the employees.

CONSTRUCTIVE FILING OF WAIVER CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN ALLOWED

Section 3121(k)(4) of the Code, as added by Pub. Law 94-563, applies to a tax-exempt organization which paid FICA taxes for a period involving three or more consecutive calendar quarters without filing a waiver certificate. If this period did not terminate before the end of the third quarter of 1973, and if the organization did not obtain a refund or credit of the taxes before September 9, 1976, the organization will be deemed under section 3121(k)(4) to have filed a certificate waiving its exemption from FICA taxes. The interim regulations make it clear that a refund or credit of those taxes was "obtained" prior to September 9, 1976, only if the taxpayer account of the organization or any of its employees was credited by the Internal Revenue Service before that date.

The interim regulations provide that in determining whether an organization has erroneously paid FICA taxes for three or more consecutive calendar quarters, any quarter during which an application for the organization's tax-exempt status was pending with the Internal Revenue Service will not be counted. This permits an organization to pay FICA taxes while awaiting determination of its tax-exempt status, without being automatically covered by section 3121(k)(4) if such status is later granted retroactively. The interim regulations also provide that where an organization is deemed to have filed a waiver certificate under section 3121(k)(4) but has not paid FICA taxes for one or more quarters covered by the deemed filed certificate, the due date for filing the returns and for paying the taxes for those quarters is August 1, 1977.

CONSTRUCTIVE FILING WHERE REFUND OR CREDIT HAS BEEN ALLOWED

Section 3121(k)(5) of the Code, also added by Pub. Law 94-563, applies to organizations that would have been covered by section 3121(k)(4) if they had not received a refund or credit of FICA taxes prior to September 9, 1976. An organization in this situation will be deemed to have filed a waiver certificate

on April 18, 1977, covering all employees for whom FICA taxes were paid, unless it files an actual retroactive waiver certificate on or before April 18, 1977.

An organization which is deemed to have filed a waiver certificate on April 18, 1977, will be solely liable for all social security taxes due for the period prior to April 1, 1977. The employees have no liability for the payment of any portion of these taxes.

In certain circumstances, an employee of an organization deemed to have filed on April 18 may elect additional retroactive social security coverage for quarters for which FICA taxes were paid and refunded or credited but which are prior to the effective date of the deemed-filed certificate. If all required conditions are satisfied, the employee can obtain additional coverage by filing a request and making full repayment of the taxes under section 3101 for the additional quarters.

ACTUAL FILING OF WAIVER BY APRIL 18, 1977

An organization which obtained a refund or credit of FICA taxes before September 9, 1976, may file an actual waiver certificate on or before April 18, 1977. This waiver certificate must be effective retroactively to cover the period of the refund or credit received (or 20 quarters, if less). Also, it must be accompanied by a list of those employees if any) who concur in the filing of the certificate. An organization which files such a retroactive waiver certificate must afford all eligible employees an opportunity to obtain the retroactive social security coverage. Taxes due for the period prior to the quarter in which a waiver certificate is filed or deemed filed under 3121(k)(5) may be paid in installments over an extended period of time.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

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

DRAFTING INFORMATION

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

Adoption of amendments to the regulations. Accordingly, a new Part 33, Temporary Employment Tax Regulations under the Act of October 19, 1976, is added to title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

§ 33.1 Constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations.

(a) *Constructive filing of waiver certificate where no refund or credit has been allowed.* (1) This paragraph applies to an organization if all of the following four conditions are met.

(i) The organization is one described in section 501(c)(3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of the Code.

(ii) The organization did not file a valid waiver certificate under section 3121(k)(1) of the Internal Revenue Code of 1954 (or the corresponding provision of prior law) as of the later of October 19, 1976, or the end of the third calendar quarter of the period referred to in subdivision (iii) of this subparagraph.

(iii) The taxes imposed by sections 3101 and 3111 of the Code were paid with respect to remuneration paid by the organization to its employees, as though such certificate had been filed, during any period that includes all or part of each of at least three consecutive calendar quarters and that did not terminate before the end of the third calendar quarter of 1973. These three quarters shall not include any quarter during any part of which an application for a ruling or determination letter recognizing an organization's tax-exempt status was pending with the Internal Revenue Service. In addition, for an organization required by paragraph (a)(2)(i) of § 1.508-1 (Income Tax Regulations) to apply for recognition of section 501(c)(3) status, the three calendar quarters referred to in the first sentence of this subdivision shall only include quarters after the quarter in which a ruling or determination letter recognizing its tax-exempt status is issued to such organization.

(iv) The Internal Revenue Service did not allow (or erroneously allowed) a refund or credit of any part of the taxes paid as described in subdivision (iii) of this subparagraph with respect to remuneration for services performed on or after July 1, 1973. For purposes of the previous sentence, a refund or credit which would have been allowed, even if a valid waiver certificate filed under section 3121(k)(1) had been in effect, shall be disregarded. A refund or credit will be regarded as having been erroneously allowed if it was credited by the Internal Revenue Service to the taxpayer account of the organization or any of its employees on or after September 9, 1976, even though it was properly made under the law in effect when made.

(2)(i) An organization to which this paragraph applies shall be deemed to have filed a valid waiver certificate under section 3121(k)(1) (or the corresponding provision of prior law) for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). The waiver certificate shall be deemed to have been filed on the first day of the period described in subparagraph (1)(iii) of this paragraph and shall be effective on the first day of the calendar quarter in which such period began. However, such waiver is effective only with respect to remuneration for services performed after 1950.

(ii) The waiver certificate shall be deemed to have been accompanied by a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes imposed by section 3101 and 3111 were paid as described in subparagraph (1)(iii) of this paragraph. Each such employee shall be deemed to have concurred in the filing of the certificate for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). A statement containing the name, address, and employer identification number of the organization, and the name, last known address, and social security number (if any) of each employee described in the preceding sentence shall be filed by the organization at the request of the Internal Revenue Service.

(iii) The services of all employees entering or reentering the employ of an organization on or after the first day following the close of the calendar quarter in which the organization is deemed to have filed the waiver certificate, performed on or after the day of such entry or reentry, shall be covered by the certificate.

(3) For purposes of computing interest under section 6601 and additions to tax under section 6651, where an organization is deemed under this paragraph to have filed a waiver certificate but the taxes imposed by section 3101 or 3111 for one or more quarters covered by such certificate are unpaid, the due date for filing returns of these taxes and for paying these taxes shall be August 1, 1977. For purposes of section 6651 (relating to additions to tax for failure to file return or pay tax), whether or not an organization's failure to pay these taxes by August 1, 1977, is due to reasonable cause shall be determined on a case-by-case basis. In appropriate cases, unanticipated financial hardship caused by this section shall constitute reasonable cause.

(b) *Constructive filing of waiver certificate where refund or credit has been allowed and new certificate is not filed.* (1) This paragraph applies to an organization which meets two conditions. First, it must be an organization to which paragraph (a) of this section would apply but for its failure to satisfy the requirement of paragraph (a)(1)(iv) of this section because a refund or credit of taxes was allowed before September 9, 1976. Second, it must not have filed an actual valid waiver certificate under section 3121(k)(1) in accordance with the requirements of paragraph (c) of this section.

(2) An organization to which this paragraph applies shall be deemed, for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B), to have filed a valid waived cer-

tificate under section 3121(k)(1) on April 18, 1977. Such certificate shall be effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subaragraph (1) of this paragraph was allowed (or, if later, on July 1, 1973).

(3) If an organization is deemed under this paragraph to have filed a waiver certificate on April 18, 1977, the provisions of paragraph (a)(2)(ii) of this section (relating to employees covered by a deemed-filed waiver certificate) shall apply. Such certificate shall supersede any certificate which may have been actually filed by such organization prior to that date.

(4) Where an organization is deemed under this paragraph to have filed a waiver certificate on April 18, 1977, the due date for the return and payment of the taxes imposed by sections 3101 and 3111 for wages paid prior to April 1, 1977, with respect to services constituting employment by reason of such certificate shall be August 1, 1977. However, see paragraph (d) of this section which permits the payment of these taxes in installments. Such taxes (along with the amount of any interest paid in connection with the refund or credit described in subparagraph (1) of this paragraph) shall be a liability of such organization, payable from its own funds. No portion of such taxes (or interest) shall be deducted from the wages of (or otherwise collected from) the individuals who performed such services, and those individuals shall have no liability for the payment thereof.

(5) This subparagraph allows certain employees of organizations covered under this paragraph to obtain social security coverage for periods prior to those covered by a deemed-filed waiver certificate. To qualify under this subparagraph, all of the following conditions must be met.

(i) An individual performed service, as an employee of an organization deemed under this paragraph to have filed a waiver certificate under section 3121(k)(1), at any time prior to the period for which such certificate is effective.

(ii) The taxes imposed by sections 3101 and 3111 were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b)) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) had been in effect) prior to September 9, 1976.

(iii) Any portion of such service (with respect to which taxes were paid and refunded or credited as described in subdivision (ii) of this subparagraph) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) a valid waiver certificate effective as provided in paragraph (c)(2) of this section (with such individual's signature appearing on the accompanying list).

If this subparagraph applies, the remuneration paid for the portion of such service described in subdivision (iii) of this subparagraph shall be deemed to constitute remuneration for employment (as defined in section 210(a) of the Social Security Act and section 3121(b)), where such individual files a request (in the manner and form, and with such official as may be prescribed by regulations under title II of the Social Security Act), accompanied by full repayment of the taxes which were paid under section 3101 with respect to such remuneration and were refunded or credited. In any case where remuneration paid by an organization to an individual is deemed under this subparagraph to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of the Code) for repayment of any taxes which it paid under section 3111 with respect to such remuneration and which were refunded or credited to it. Any interest received by the organization or its employees in connection with a refund or credit with respect to such taxes shall be remitted with the repayment of taxes pursuant to this subparagraph.

(c) *Actual filing of waiver certificate by April 18, 1977, where refund or credit has been allowed.* (1) An organization may file an actual waiver certificate in accordance with subparagraphs (2) and (3) of this paragraph if it is an organization to which paragraph (a) of this section would apply but for its failure to meet the condition set forth in paragraph (a)(1)(iv) of this section.

(2) An organization described in subparagraph (1) of this paragraph may file an actual waiver certificate on or before April 18, 1977. This certificate must be effective for the period beginning on or before the first day of the first calendar quarter with respect to which a refund or credit described in paragraph (b)(1) of this section was allowed (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under section 3121(k)(1)(B)(iii)). Such waiver certificate must be accompanied by a list described in section 3121(k)(1)(A), containing the signature, address, and social security number of each concurring employee (if any).

(3) Such a waiver certificate shall be valid only if the organization complies with the following notification requirements and, on or before August 1, 1977, files (with the service center of the Internal Revenue Service with which the waiver certificate is filed) a certification that it has complied with these notification requirements. However, these requirements shall be conclusively presumed to have been met with respect to any employees who concur in the filing of the waiver certificate.

(i) Written notification of the option to obtain social security coverage for the retroactive period covered by the waiver certificate shall be given to all current and former employees of the organization with respect to whose remuneration taxes imposed by sections 3101 and 3111 were paid for any part of the period covered by the waiver certificate. For purposes of the preceding sentence, in the case of a former employee a mailing of notification to his or her last known address shall constitute delivery to the former employee. This notification must be given at least 30 days prior to the date by which the employee is required to inform the organization whether he elects the retroactive social security coverage.

(ii) The notification required by this subparagraph must state the earliest date for which the waiver certificate is effective and the date by which the employee must inform the organization of a decision to elect the retroactive coverage. In addition, the notification must advise the employee how to obtain information as to the quarters of social security coverage to be obtained and any taxes or interest for which the employee will be liable if the election is made. The organization must provide this information to any interested employee at least 14 days prior to the last day on which such employee may inform the organization of his election.

(iii) If the notification results in any employee electing the retroactive coverage whose signature did not appear on the list of concurring employees which accompanied a previously filed waiver certificate, the certification to be supplied on or before August 1, 1977, must be accompanied by a special amendment to that list. Any employee whose name appears on this special amended list shall be treated as if his name appeared on the list of concurring employees filed with the waiver certificate. The preceding sentence shall only apply with respect to amended lists of concurring employees filed to comply with the requirements of this subparagraph.

(4) Any interest received in connection with a refund or credit described in paragraph (b)(1) of this section must be repaid on or before August 1, 1977, with respect to each employee who concurs in the filing of a waiver certificate pursuant to this paragraph. Notwithstanding the provisions of paragraph (c)(4) of § 31.3121(k)-1, if such interest is repaid on or before August 1, 1977, the waiver certificate shall be considered filed on the date it was originally furnished to the Internal Revenue Service.

(d) *Installment payment of taxes for retroactive coverage under section 3121(k)(5).* This paragraph applies where an organization files a waiver certificate under section 3121(k)(1) on or before April 18, 1977, in accordance with the provisions of paragraph (c) of this section, or is deemed to have filed such a certificate under paragraph (b)(2) of this section. In such a case, the taxes due under sections 3101 and 3111 (together with any additions to tax or interest other than interest described in paragraph (c)(4) of this section) by reason of such certificate, for any period prior to the first day of the calendar

quarter in which the certificate is actually or deemed filed, may be paid in quarterly installments over an appropriate period of time, as determined by the district director. In determining the appropriate period of time, the district director shall exercise forbearance and, to the extent possible, grant the organization an installment agreement that will allow it sufficient funds to carry out its basic mission. If any installment is not paid on or before the date fixed for its payment, the total unpaid amount shall become payable immediately and shall be paid upon notice and demand.

(e) *Application of certain provisions to cases of constructive filing.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph, all of the provisions of section 3121(k) (other than subparagraphs (B), (F), and (H) of section 3121(k)(1) and the regulations thereunder (including the provisions requiring the payment of taxes under sections 3101 and 3111 with respect to the services involved), shall apply with respect to any certificate which is deemed to have been filed under paragraph (a) or (b) of this section, in the same way they would apply if the certificate had been actually filed on that day under section 3121(k)(1).

(2) The provisions of section 3121(k)(1)(E) shall not apply unless the taxes described in paragraph (a)(1)(iii) of this section were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate.

(3) The action of the organization in obtaining the refund or credit described in paragraph (b)(1) of this section shall not be considered a termination of such organization's coverage period for purposes of section 3121(k)(3).

(4) Any organization which is deemed to have filed a waiver certificate under paragraph (a) or (b) of this section shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

JOHN L. WITHERS,
Acting Commissioner of Internal Revenue.

Approved: May 6, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-13500 Filed 5-9-77;10:05 am]

Title 32—National Defense

CHAPTER XIX—CENTRAL INTELLIGENCE AGENCY

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

Freedom of Information

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: This rule amends CIA regulations governing access to records under the Freedom of Information Act by clarifying and updating the term "records" so that it includes machine readable materials and those documents and records furnished by other agencies, foreign governments, or international organizations and held by the CIA. Also, under this rule, a request under the Act for documents or records originated by CIA, which is referred to CIA by another agency, shall be considered a Freedom of Information request to the CIA. It will be processed in accordance with CIA regulations, as of the time that it is received by CIA, and CIA will respond directly to the requester, making it unnecessary for a requester to submit requests to both agencies. Similarly, a request directed to CIA that concerns documents or records originated by another agency will be transferred by CIA to the originating agency for their determination and direct response to the requester.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Gene F. Wilson, Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505, 703-351-7486.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking issued February 3, 1977 and published in the FEDERAL REGISTER, Vol. 42, No. 28, on February 10, 1977. No comments were received in response to the notice. These amendments are the same as those published in the notice.

Accordingly, 32 CFR Part 1900 is amended as follows:

§ 1900.3 [Amended]

1. In § 1900.3 paragraph (g) is amended by inserting the words "machine readable materials" between the word "photographs" and the words "and other documentary materials" and by deleting paragraphs (4) and (5).

2. Section 1900.11 is amended by revising paragraph (d) to read as follows:

§ 1900.11 Freedom of information communications; requirements as to form.

* * * * *

(d) Any request or communication to an agency other than the Central Intelligence Agency which requests or concerns documents or records originated by the CIA, and which is transferred by that agency to the CIA, shall be considered a Freedom of Information request to the CIA for that referred document as of date of receipt by the CIA of the referral, and shall be processed pursuant to regulations. CIA will respond directly to the requester.

3. In § 1900.43 a new paragraph (c) is added to read as follows:

§ 1900.43 Reviewing records.

* * * * *

(c) In the event located records are determined to have originated with another government agency, the Coordinator shall notify the requester of such fact and shall expeditiously forward such records or a description thereof to the originating agency for their determination and direct response to the requester.

Dated: April 30, 1977.

JOHN F. BLAKE,
Deputy Director for Administration, Central Intelligence Agency.

[FR Doc.77-13513 Filed 5-11-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1165-2-18]

PART 209—ADMINISTRATIVE PROCEDURES

Reimbursement for Advance Non-Federal Participation in Civil Works Projects

AGENCY: Office of the Chief of Engineers, Department of the Army.

ACTION: Final rule.

SUMMARY: This regulation establishes general policies, outlines procedures to be followed in reaching an agreement with an eligible non-Federal entity, and provides guidance on the provisions of such an agreement for reimbursement of advance non-Federal participation in Civil Works projects. These instructions will implement the provisions of Section 215 of the Flood Control Act of 1968. These requirements are intended to improve and expedite action resulting from non-Federal requests.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard J. Rusnack, Construction-Operations Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314, 202-693-6909.

SUPPLEMENTARY INFORMATION: Since this regulation only provides procedural guidance to Corps of Engineers field personnel on the implementation of Public Law 90-483, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Statutory Authority Pub. L. 90-483)

Dated: April 29, 1977.

ALFRED F. LAWRENCE, Jr.,
Colonel, Corps of Engineers, Acting Executive.

Section 209.345 including Appendix A is added to 33 CFR Part 209 as follows.

§ 209.345 Water Resource Policies and Authorities.

REIMBURSEMENT FOR ADVANCE NON-FEDERAL PARTICIPATION IN CIVIL WORKS PROJECTS

(a) *Purpose.* This Regulation gives general instructions on use of Section 215 of the Flood Control Act of 1968 (Pub. L. 90-483) to reimburse a non-Federal public body for construction of part of an authorized Federal project. It establishes general policies, outlines procedures to be followed in reaching an agreement with an eligible non-Federal entity, and provides guidance on the provisions of such an agreement. All authorized projects are subject to this Act and Regulation.

(b) *Applicability.* This regulation applies to all field operating agencies having Civil Works responsibilities.

(c) *References.* (1) Section 215, FCA of 1968 (Pub. L. 90-483, 42 U.S.C. 1962d-5a). (APP A, this regulation).

(2) Senate Document No. 10, 90th Congress, 1st Session, "Study of Federal Reimbursement Policy for Work by States and other Non-Federal Entities on Authorized Water Resources Projects."

(3) Section 221, FCA of 1970 (Pub. L. 91-611, 42 U.S.C. 1962d-5b).

(4) ER 405-2-680.

(5) ER 1140-2-301

(6) ER 1180-1-1, (para. A-310, App. A)

(d) *General Policy.* (1) The specific limitations put upon the allotment of funds authorized by Section 215 indicate that only limited use should be made of the authority. It will, therefore, be Corps of Engineers policy to restrict the use of this authority to cases that meet all of the following conditions: (i) The work, even if the Federal Government does not complete the authorized project, will be separately useful or will be an integral part of a larger non-Federal undertaking that is separately useful; (ii) the work done by the non-Federal entity will not create a potential hazard; (iii) approval of the proposal will be in the general public interest; (iv) only work commenced after project authorization and execution of an agreement pursuant to this Regulation will be eligible for reimbursement or credit; (v) proposed reimbursement will not exceed the amount that the District Engineer considers a reasonable estimate of the reduction in Federal expenditures resulting from construction of the project component by the non-Federal entity.

(2) Before finally approving any agreement under Section 215, the Chief of Engineers will inform the Secretary of the Army and the Chairman (Senate and House), Subcommittee on Public Works, Committee on Appropriations of the proposed arrangements. The Chief of Engineers will not sign an agreement until Secretarial and Committee concurrences are obtained.

(3) Section 215 authority will not be used where it might appear to circumvent the intent of Congress. It will not, for example, be used to initiate work on projects to which Congressional committees have indicated general opposition or refused to provide requested funds, or to accelerate portions of work on which construction has already been commenced by the Federal Government.

(4) Section 215 (f) authorizes a specific allotment of funds to reimburse non-Federal entities for work accomplished under the Section. No allotment has been established, nor is one proposed at this time. Until one is, and firm procedures are established, any agreement with a non-Federal entity shall call for reimbursement, or for credit against required contributions, only when construction funds for the Federal project which incorporates the part constructed by the non-Federal entity are appropriated and allocated.

(5) The non-Federal entity will normally be required to develop the design memorandum, engineering plans, and specifications for the work it proposes to undertake. Subject to policies established in ER 1140-2-301, as modified in paragraph (e)(2) of this section, the District Engineer may provide engineering services with funds advanced by the non-Federal entity if he determines it to be impracticable for the entity to obtain the services elsewhere. Non-Federal engineering and overhead costs for the part of the Federal project that the non-Federal entity proposes to construct will be part of the reimbursement agreement.

(6) The agreement shall include local cooperation items required by the project authorization and by Section 221, FCA of 1970.

(7) Reimbursement of non-Federal work under Section 215 is not applicable to small projects authorized under the general authority of Section 107, Public Law 86-645, as amended, (33 U.S.C. 577); Section 205, Public Law 858, 80th Congress, as amended, (33 U.S.C. 701s); and Section 103, Public Law 87-874, as amended, (33 U.S.C. 426g); and Section 14, Public Law 79-526 (33 U.S.C. 701r).

(e) *Procedures.* (1) Non-Federal entities desiring reimbursement under Section 215 for constructing part of an authorized Federal project should confer with the District Engineer and submit a written proposal to him. This proposal will form the basis for consulting, as needed, with OCE and for deciding whether the proposal meets the policy criteria of paragraph (d) of this section, and whether to continue under the procedures below and what sequence to follow.

(2) If Federal preconstruction planning funds are not available to the project and it is considered impractical for the non-Federal entity to prepare a partial design memorandum and/or plans and specifications, the draft agreement may propose that this work be accomplished by the Corps of Engineers through an advance of non-Federal funds for this purpose. Certain advances of funds will be necessary, in any event, to cover other costs which are required on the part of the Corps of Engineers. Paragraph 11 of ER 1140-2-301 requires that requests to the Appropriations Committees for approval of advances of funds should normally be submitted to the Committees by non-Federal interests outside of Corps of Engineers channels. An exception to this procedure will be made in the case of Section 215 proposals in that the request for approval of advances will be made a part of the request to the Committees for approval of the overall arrangement referred to in paragraph (d)(2) of this section. Thus, proposed advances of funds for the following purposes will be clearly set forth in the draft agreement: (i) preparation of a partial design memorandum and/or plans and specifications, (ii) Corps review of design scheduled for accomplishment by local interests, and (iii) periodic and final inspections.

(3) The District Engineer will submit for review an unsigned draft agreement to OCE. All agreements will be prepared for the signature of the Chief of Engineers.

(4) The District Engineer will be notified of any changes in the draft agreement that the Chief of Engineers may require, and will negotiate a final agreement with the non-Federal entity. After signature of the agreement by the non-Federal entity, the District Engineer will forward three copies to HQDA (DAEN-CWO-C) WASH DC 20314, for signature by the Chief of Engineers.

(5) Upon receipt from OCE of the fully executed agreement, the District Engineer will transmit the signed agreement to the non-Federal entity.

(6) The Division Engineer will review the (partial) design memorandum, and, if it meets the relevant criteria in paragraph (d)(1) of this section, will submit it to OCE with recommendations on whether or not the work may proceed subject to reimbursement under the agreement.

(7) The Division Engineer will approve plans and specifications.

(8) The non-Federal entity will award contract.

(9) The District Engineer will conduct periodic and final inspections.

(10) Upon completion of the local work, the District Engineer will certify the cost data, and that performance has been in accordance with the agreement.

(f) *Agreements.* Agreements under Section 215 should follow the general format presented in paragraph (c)(6) of this section, adapted as warranted by the specific case. Each agreement shall:

(1) Expire 3 years after the date of execution if the non-Federal entity has not commenced the work contemplated by the agreement.

(2) State the time allowed for completion of the work. A reasonable time shall be allowed, but normally not over 2 construction seasons.

(3) Fully describe the work to be accomplished by the non-Federal entity and specify the manner in which it will be carried out.

(4) The agreement will specify that reimbursement by the Federal Government will not exceed $1,000,000.

(5) Provide for necessary review of designs, plans, and specifications, by the District Engineer.

(6) Provide for examination and review of proposed contracts and for inspection of the work by the District Engineer for conformance with the terms of the agreement.

(7) State fully the basis on which reimbursement or credit shall be determined, and provide for the final adjustment when the balance of the Federal project is constructed. If the improvement proposed by the non-Federal entity includes work that will not become a part of the Federal project, the means of determining the part eligible for reimbursement shall be fully defined.

(8) State that such reimbursement shall depend upon appropriation of funds applicable to the project and shall not take precedence over other pending projects of higher priority.

(9) Specify that reimbursement or credit for non-Federal work shall apply only to that work undertaken after execution of the agreement. The term "work" shall include advance engineering and design as well as actual construction.

(10) State that the agreement is not to be construed as committing the United States to reimbursement if the Federal project is not undertaken, of if the Federal project should be modified in such a way that the work performed by the non-Federal entity does not constitute a part thereof.

(11) Contain applicable equal employment clauses from Armed Services Procurement Regulations.

(g) *Nature and amount of reimbursement.* (1) The non-Federal entity may be reimbursed by a payment of cash, or, preferably, by reductions in any non-Federal contribution to the Federal project that may have been required by the legislation authorizing it, or by a combination of cash and such reductions.

(2) The amount of reimbursement shall equal the approved expenditures made by the non-Federal entity for work that would have been accomplished at Federal expense if the entire project were carried out by the Corps of Engineers, and as covered in the agreement under paragraphs (f)(7) and (f)(10) of this section. The amount of reimbursement will not exceed, however, the amount that the District Engineer finds to be a reasonable estimate of the reduction in Federal expenditure resulting from construction by the non-Federal entity.

APPENDIX A.—PUBLIC LAW 90-483, 90TH CONGRESS, S. 3710, AUGUST 13, 1968

An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purpose. (82 Stat. 731).

* * * * *

Sec. 215. (a) The Secretary of the Army, acting through the Chief of Engineers, may, when he determines it to be in the public interest, enter into agreement providing for reimbursement to States or political subdivisions thereof for work to be performed by such non-Federal public bodies at water resources development projects authorized for construction under the Secretary of the Army and the supervision of the Chief of Engineers. Such agreements may provide for reimbursement of installation costs incurred by such entities or an equivalent reduction in the contributions they would otherwise be required to make, or in appropriate cases, for a combination thereof. The amount of Federal reimbursement, including reductions in contributions, for a single project shall not exceed $1,000,000.

(b) Agreements entered into pursuant to this section shall (1) fully describe the work to be accomplished by the non-Federal public body, and be accompanied by an engineering plan if necessary therefor; (2) specify the manner in which such work shall be carried out; (3) provide for necessary review of design and plans, and inspection of the work by the Chief of Engineers or his designee; (4) state the basis on which the amount of reimbursement shall be determined; (5) state that such reimbursement shall be dependent upon the appropriation of funds applicable thereto or funds available therefor, and shall not take precedence over other pending projects of higher priority for improvements; and (6) specify that reimbursement or credit for non-Federal installation expenditures shall apply only to work undertaken or Federal projects after project authorization and execution of the agreement, and does not apply retroactively to past non-Federal work. Each such agreement shall expire three years after the date on which it is executed if the work to be undertaken by the non-Federal public body has not commenced before the expiration of that period. The time allowed for completion of the work will be determined by the Secretary of the Army, acting through the Chief of Engineers, and stated in the agreement.

(c) No reimbursement shall be made, and no expenditure shall be credited, pursuant to this section, unless and until the Chief of Engineers or his designee, has certified that the work for which reimbursement or credit is requested has been performed in accordance with the agreement.

(d) Reimbursement for work commenced by non-Federal public bodies no later than one year after enactment of this section, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 2 of the Act of August 13, 1946, as amended (33 U.S.C. 426f). Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after enactment of this section may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

(e) This section shall not be construed (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or (2) as committing the United States to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

(f) The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works, not to exceed $10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement.

* * * * *

[FR Doc.77-13553 Filed 5-11-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amendment H-99]

UTILIZATION, DONATION, AND DISPOSAL OF CERTIFIED AND NONCERTIFIED ELECTRONIC PRODUCTS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation sets forth policy and procedures which provide for the utilization, donation, and disposal of certified and noncertified electronic products. The Department of Health, Education, and Welfare is responsible for policy and procedures governing the safety of radiation-emitting electronic products. It is their opinion that certain electronic products subject to safety performance standards may not be fully reconditioned or tested to determine whether the products are adulterated, misbranded, or dangerous prior to placement into the property disposal process. This amendment takes the necessary action to amend the FPMR accordingly.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Procedures Management Division, Office of Customer Service and Support, Federal Supply Service, General Services Administration, Washington, DC 20406, 703-557-1914.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

The table of contents for Part 101-43 is amended by adding the following new entry:

Sec.
101-43.313-12 Noncertified electronic products.

Subpart 101-43.3—Utilization of Excess

Section 101-43.313-12 is added as follows:

§ 101–43.313–12 Noncertified electronic products.

(a) For the purpose of this section "noncertified electronic product" means any excess or exchange/sale electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the Food and Drug Administration (FDA) under 21 CFR 1020 and which the manufacturer has not certified as meeting such standard. The noncertification may be due to either (1) manufacture of the product before the effective date of the standard or (2) the product was exempted from the applicable standard and is so labeled.

(b) Excess or exchange/sale electronic items for which radiation safety performance standards are prescribed by FDA under 21 CFR 1000 shall be made available for transfer to Federal agencies in accordance with the provisions of § 101–43.311 and this § 101–43.313–12. Standard Form 120, Report of Excess Personal Property (illustrated at § 101–43.4902), shall identify the items as noncertified electronic products and shall contain a statement that the items may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR 1000. Excess property catalogs and bulletins circulated by GSA offering such items shall advise Federal agencies of the potential danger of using the items unless they are upgraded to meet Federal radiation safety standards.

(c) Transfers of noncertified electronic products among Federal agencies shall be accomplished:

(1) As set forth in § 101–43.315; and

(2) By Standard Form 122, Transfer Order Excess Personal Property (illustrated at § 101–43.4906), or any other approved GSA transfer order form certified by the transferee that he:

(i) Is aware of the potential danger in using the item without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR 1000; and

(ii) Agrees to accept the item from the holding agency under the conditions cited in paragraph (c)(2)(i) of this section.

PART 101–44—DONATION OF PERSONAL PROPERTY

The table of contents for Part 101–44 is amended by adding the following new entries:

Sec.

101–44.324	Donation of certified and noncertified electronic products.
101–44.502–3	Certified and noncertified electronic products.

Subpart 101–44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

Section 101–44.324 is added as follows:

§ 101–44.324 Donation of certified and noncertified electronic products.

(a) For the purpose of this section "certified electronic product" means any excess electronic product that has been determined by GSA to be surplus to the needs and responsibilities of all Federal agencies, and which bears the manufacturer's certification label or tag (21 CFR 1010.2) that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR 1020. "Noncertified electric products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been exempted from an applicable standard and is so labeled.

(b) Surplus certified and noncertified electronic products not required for transfer as excess personal property to Federal agencies in accordance with the provisions of § 101–43.313–12 shall be made available for donation for educational, public health, civil defense, and public airport purposes pursuant to the provisions of § 101–44.304, as follows:

(1) Pursuant to the provisions of § 101–44.324(c) in the case of noncertified:

(i) Color and black and white television receivers;

(ii) Microwave ovens;

(iii) Diagnostic X-ray systems and their major components;

(iv) Cabinet X-ray systems;

(v) Laser products; or

(vi) Any other electronic products for which FDA promulgates a performance standard; and

(2) Pursuant to the provisions of § 101–44.324(d) in the case of:

(i) Noncertified microwave ovens;

(ii) Certified and noncertified diagnostic X-ray systems and their major components;

(iii) Certified and noncertified cabinet X-ray systems; or

(iv) Noncertified laser products; and

(3) Only under conditions of destructive salvage in the case of noncertified cold-cathode gas discharge tubes.

(c) Donation of electronic products designated in (b)(1) of this section shall be accomplished as provided in § 101–44.304 provided the donee:

(1) Is appropriately warned that the item may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR 1000;

(2) Agrees the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or to any other person arising from or incident to the donation of the item, its use, or final disposition; and

(3) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or final disposition.

(d) Whenever donations of electronic products designated in (b)(2) of this section are for educational, public health, civil defense, or public airport purposes, or to service educational activities, HEW, DOD, or FAA, as applicable, shall: (1) Provide the applicable State radiation control agency in which the donee is located (see § 101–45.4926) with a copy of the donation document (SF 123, Application for Donation of Surplus Personal Property) and include the name and address of the donee and a description of the item or items donated and (2) require that the donee certifies on SF 123 that he:

(i) Is aware of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR 1000, and agrees to accept the item from the holding agency for donation under those conditions;

(ii) Agrees the Government shall not be liable for personal injuries to, disabilities of or death of the donee, the donee's employees, or to any other person arising from or incident to the donation of the item, its use, or final disposition; and

(iii) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the domination of the item, its use, or final disposition.

Subpart 101–44.5—Donation of Property to Public Bodies

Section 101–44.502–3 is added as follows:

§ 101–44.502–3 Certified and noncertified electronic products.

Whenever any item of the type defined under § 101–44.324 is donated to a public body in accordance with the provisions of this subpart, the head of the agency authorized to make the donation shall be responsible for the same safeguards, notifications, and certifications required by § 101–44.324.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

The table of contents for Part 101–45 is amended by adding the following new entries:

Sec.

101–45.309–11	Certified and noncertified electronic products.
101–45.4926	State radiation control agencies.

Subpart 101–45.3—Sale of Personal Property

Section 101–45.309–11 is added as follows:

§ 101–45.309–11 Certified and noncertified electronic products.

(a) For the purpose of this section "certified electronic product" means any surplus or exchange/sale electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR 1000. "Noncertified electronic products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been

exempted from an applicable standard and is so labeled.

(b) The sale of the following certified and noncertified exchange/sale and surplus electronic products which are not required for transfer or donation shall be accomplished in accordance with the provisions of § 101–45.304 and the special conditions of sale in this § 101–45.309–11:

(1) Noncertified color and black and white television receivers;

(2) Noncertified microwave ovens;

(3) Certified and noncertified diagnostic X-ray systems and their major components;

(4) Certified and noncertified cabinet X-ray systems;

(5) Noncertified laser products;

(6) Noncertified cold-cathode gas discharge tubes under conditions of scrap or salvage; and

(7) Any other noncertified electronic product for which FDA may promulgate a performance standard.

(c) The invitations for bids shall contain a notice to bidders substantially as follows:

Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR 1000, and use may constitute a potential for personal injury unless modified. The purchaser agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other person arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the purchase or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR Part 1000.

(d) Within 30 calendar days following award, the selling agency shall provide the State radiation control agency for the State in which the buyer is located (see § 101–45.4926) with a written notice of the award that includes the name and address of the purchaser and the description of the item sold.

Subpart 101–45.49—Illustrations

Section 101–45.4926 is added as follows:

§ 101–45.4926 State radiation control agencies.

ALABAMA

Director, Division of Radiological Health, Alabama State Department of Public Health, State Office Building, Montgomery, AL 36130.

ALASKA

Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, AK 99801.

ARIZONA

Executive Director, Arizona Atomic Energy Commission, 1601 West Jefferson Street, Phoenix, AZ 85007.

ARKANSAS

Director, Division of Radiological Health, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72201.

CALIFORNIA

Chief, Radiological Health Section, California Department of Health, Building No. 8, 714 P Street, Sacramento, CA 95814.

COLORADO

Director, Division of Occupational and Radiological Health, Colorado Department of Health, 4210 East 11th Avenue, Denver, CO 80220.

CONNECTICUT

Assistant Director of Compliance (Ionizing Radiation), Connecticut Department of Environmental Protection, State Office Building, Hartford, CT 06115.

DELAWARE

Program Director, Office of Radiation Safety, Division of Public Health, Delaware Department of Health and Social Services, Jesse S. Cooper Memorial Building, Capitol Square, Dover, DE 19901.

DISTRICT OF COLUMBIA

Chief, Bureau of Institutional Hygiene and Radiological Health, Bureau of Public Health Engineering, Department of Environmental Services, DC General Hospital, Box 97, Washington, DC 20003.

FLORIDA

Administrator, Radiological and Occupational Health Section, Division of Health, Florida Department of Health and Rehabilitative Services, P.O. Box 210, Jacksonville, FL 32201.

GEORGIA

Director, Radiological Health Unit, Georgia Department of Human Resources, State Office Building, Atlanta, GA 30334.

HAWAII

Chief, Noise and Radiation Branch, Hawaii Department of Health, P.O. Box 3378, Honolulu, HI 96801.

IDAHO

Chief, Radiation Control Section, Idaho Department of Health and Welfare, Statehouse, Boise, ID 83720.

ILLINOIS

Chief, Division of Radiological Health, Illinois Department of Public Health, 535 West Jefferson Street, Springfield, IL 62761.

INDIANA

Director, Division of Radiological Health, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, IN 46206.

IOWA

Chief, Hazardous Substance Section, Iowa State Department of Environmental Quality, 3920 Delaware Street, P.O. Box 3326, Des Moines, IA 50316.

KANSAS

Director, Radiation Control Program, Kansas Department of Health and Environment, Forbes AFB, Building 740, Topeka, KS 66620.

KENTUCKY

Director, Radiological Health Program, Kentucky State Department for Human Resources, Capitol Annex, Frankfort, KY 40601.

LOUISIANA

Director, Division of Radiation Control, Louisiana Board of Nuclear Energy, P.O. Box 44033, Capitol Stations, Baton Rouge, LA 70804.

MAINE

Commissioner, Maine Department of Health and Welfare, State House, Augusta, ME 04330.

MARYLAND

Chief, Division of Radiation Control, Maryland Department of Health and Mental Hygiene, State Office Building, 301 West Preston Street, Baltimore, MD 21201.

MASSACHUSETTS

Assistant to the Commissioner (Radiological Health), Massachusetts Department of Public Health, 80 Boylston Street, Room 940, Boston, MA 02116.

MICHIGAN

Chief, Radiation Division, Michigan Department of Public Health, 3500 North Logan Street, Lansing, MI 48914.

MINNESOTA

Chief, Section of Radiation Control, Minnesota Department of Health, 717 Delaware Street, S.E., Minneapolis, MN 55440.

MISSISSIPPI

Supervisor, Radiological Health Unit, Mississippi State Board of Health, P.O. Box 1700, Jackson, MS 39205.

MISSOURI

Director, Bureau of Radiological and Occupational Health, Missouri Division of Health, State Office Building, Jefferson City, MO 65101.

MONTANA

Chief, Radiological and Occupational Health Program, Montana Department of Health and Environmental Sciences, Cogswell Building, Helena, MT 59601.

NEBRASKA

Director, Division of Radiological Health, Nebraska Department of Health, Lincoln Building, 1003 O Street, Lincoln, NE 68508.

NEVADA

Supervisor, Radiological Health, Nevada Department of Health and Welfare, 201 South Fall Street, Carson City, NV 89701.

NEW HAMPSHIRE

Director, State Radiation Control Agency, New Hampshire Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, NH 03301.

NEW JERSEY

Chief, Bureau of Radiation Protection, New Jersey Department of Environmental Protection, P.O. Box 1390, John Fitch Plaza, Trenton, NJ 08625.

NEW MEXICO

Chief, Radiological and Occupational Health and Air Quility Control Section, New Mexico Environmental Improvement Agency, P.O. Box 2348, Santa Fe, NM 87501.

NEW YORK

Director, Bureau of Radiological Health, New York State Department of Health, 845 Central Avenue, Albany, NY 12206.

NORTH CAROLINA

Head, Radiation Protection Branch, North Carolina Department of Human Resources, P.O. Box 12200, Raleigh, NC 27605.

NORTH DAKOTA

Director, Division of Environmental Engineering, Radiological Health Program, North Dakota State Department of Health, Capitol Building, Bismarck, ND 58501.

OHIO

Engineer-in-Charge, Radiological Health Unit, Ohio Department of Health, P.O. Box 118, Columbus, OH 43216.

OKLAHOMA

Chief, Occupational and Radiological Health Service, Oklahoma Department of Health, N.E. 10th and Stonewall Streets, Oklahoma City, OK 73105.

OREGON

Director, Radiological Control Service, Oregon State Health Division, P.O. Box 231, Portland, OR 97207.

PENNSYLVANIA

Director, Bureau of Radiological Health, Pennsylvania Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120.

PUERTO RICO

Director, Radiological Health Program, Puerto Rico Department of Health, 1306 Ponce de Leon Avenue, Stop 16, Santurce, PR 00908

RHODE ISLAND

Director of Health, Rhode Island Department of Health, Health Department Building, Davis Street, Providence, RI 02908.

SOUTH CAROLINA

Director, Division of Radiological Health, South Carolina Department of Health and Environmental Control, 137 J. Marion Sims Building, Columbia, SC 29201.

SOUTH DAKOTA

Secretary of Health, South Dakota Department of Health, State Capitol, Pierre, SD 57501.

TENNESSEE

Director, Division of Occupational and Radiological Health, Tennessee Department of Public Health, 727 Cordell Hull Building, Sixth Avenue, North, Nashville, TN 27219.

TEXAS

Director, Division of Occupational Health and Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756.

UTAH

Chief, Radiation and Occupational Health Section, Utah Division of Health, 44 Medical Drive, Salt Lake City, UT 84113.

VERMONT

Director, Division of Occupational Health, Radiological Health Program, Vermont Department of Health, P.O. Box 607, Barre, VT 05641.

VIRGINIA

Director, Bureau of Industrial Hygiene and Radiological Health, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219.

VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Charlotte Amalie, St. Thomas, VI 00801.

WASHINGTON

Chief, Radiation Chemical and Physical Hazards Section, Washington Department of Social and Health Services, P.O. Box 1788, Olympia, WA 98504.

WEST VIRGINIA

Director, Bureau of Industrial Hygiene, Radiological Health Program, West Virginia Department of Health, 1800 East Washington Street, Charleston, WV 25305.

WISCONSIN

Chief, Radiation Protection Section, Wisconsin Department of Health and Social Services, P.O. Box 309, Madison, WI 53701.

WYOMING

Radiological Health Specialist, Wyoming Department of Health and Social Services, New State Office Building, Cheyenne, WY 92001.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 25, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-13614 Filed 5-11-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20664; FCC 77-288]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 87—AVIATION SERVICES

Making Available to Aeronautical Utility Mobile Stations, Under Certain Conditions, All the ATC Frequencies Listed in Section 87.401

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: These Amendments of the Commission's rules allow aeronautical utility mobile stations to operate on any air traffic control frequency for authorized communications. This will allow a particular station to communicate with FAA aeronautical radio stations in conformity with FAA practices. The rule making was instituted at the request of FAA.

EFFECTIVE DATE: June 13, 1977.

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

FOR FURTHER INFORMATION CONTACT:

John Hays, Aviation and Marine Division, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Adopted: April 27, 1977.

Released: May 9, 1977.

In the matter of amendment of Parts 2 and 87 of the Commission's rules to make available to aeronautical utility mobile stations, under certain conditions, all the ATC frequencies listed in § 87.401.

1. A Notice of Proposed Rule Making in the above-captioned matter was released on November 5, 1975, and was published in the FEDERAL REGISTER on November 12, 1975 (40 FR 52745). The time for filing comments and reply comments has expired and timely comments were filed by Aeronautical Radio, Inc. (ARINC) and the Federal Aviation Administration (FAA). Subsequently, the Aircraft Owners and Pilots Association (AOPA) submitted a letter commenting on this rule making which will be considered in view of the importance of this rule making to the persons represented by them. Furthermore, this rule making was coordinated directly with the FAA to resolve questions as to definitions and operational problems.

2. Under present Commission rules, aeronautical utility mobile stations may only be assigned one or more of the fourteen frequencies listed in § 87.431 which are also shown in §§ 87.183(i) and 87.401(a) as available for use as air traffic control frequencies on a secondary basis. The FAA, however, has authorized its FAA flight service stations to communicate with this class of station on certain other ATC frequencies listed in §§ 87.183(i) and 87.401(a). The ATC frequencies are allocated for civil aviation use and are assigned to both government and non-government radio stations for communication in the ATC system which is administered by the FAA.

3. Aeronautical utility mobile stations are licensed for use aboard non-government maintenance, police, fire, emergency and other vehicles which operate on runways at airports having airdrome control towers or FAA flight service stations and are limited to communications involving the management of ground traffic by the airdrome control station located at the control tower or the FAA flight service station. Although the Commission, in most instances, will continue to assign to these stations one or more of the fourteen frequencies presently listed in section 431, this rule making will permit the assignment in special cases of other ATC frequencies to allow a particular station to communicate with FAA aeronautical radio stations in conformity with FAA practices. These ATC frequencies listed in §§ 87.183(i) and 87.401(a) will only be assigned after direct coordination with the FAA.

4. In their comments the AOPA contends that since FAA flight service stations do not control any airports, they cannot control aeronautical utility mobile stations. It is true that FAA flight service stations can only provide advisory information to aircraft which includes wind direction and velocity, favored or designated runways, altimeter settings, known traffic, notices to airmen, airport taxi routes, airport traffic patterns, and instrument approach procedures. They cannot control air traffic and have no traffic authority over ground vehicles. However, this does not prevent the Commission from permitting them to control communications with ground vehicles. Considering the importance of

advisory information to aircraft safety, the Commission believes that FAA flight service stations rendering this service should have authority to determine what communications have priority and to curtail other transmissions.

5. In addition, the AOPA requested that the Commission clarify whether aeronautical utility mobile stations can communicate with each other when neither the airdrome control tower nor the FAA flight service station are in operation. After discussions with the FAA, the Commission has decided that aeronautical utility mobile stations should not operate in such circumstances. The Commission can envision no instances when ground-to-ground communication between vehicles would be within the scope of service of aeronautical utility mobile stations which is limited to the necessities of ground traffic control. This would especially be true if neither the airdrome control tower nor the FAA flight service station were in operation to provide direction. Accordingly, we have made appropriate modifications to this rule making.

6. The FAA recommended that any reference to control of aeronautical utility mobile stations by airdrome control towers or FAA flight service stations be deleted from the definition of aeronautical utility mobile station. They indicated that this is a regulation and should not be stated in a definition. The FAA also requested that the "A" designator next to the fourteen airport utility frequencies and related footnote in the table of ATC frequencies set forth in §§ 87.183(i) and 87.401(a) be deleted. The footnote implies that those frequencies are available as ATC frequencies on a secondary basis to their primary use as airport utility frequencies. The FAA indicated that this is not correct because they consider the frequencies to be ATC frequencies and part of the ATC system.

7. The Commission concurs in both recommendations of FAA and has made appropriate modifications to this rule making.

8. ARINC suggests that the Commission retain the definition of aeronautical utility land station. They state that no provisions of the rules authorize airdrome control stations to communicate with aeronautical utility mobile stations but that aeronautical utility land stations have this authority. This argument is without merit since § 87.401(c) does permit direct communication between airdrome control stations and aeronautical utility mobile stations. The Commission, however, will retain the definition of aeronautical utility land station because in certain circumstances it has been necessary to authorize this type of station and a review of our files disclosed several licenses of this type outstanding.

9. A consequential amendment to Part 2 is included.

10. Accordingly, it is ordered, That pursuant to authority contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, Part 97 of the Commission's rules is amended effective June 13, 1977, as set forth below.

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

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 2 and 87 of chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In § 2.1 the definition, "Aeronautical utility mobile station," is amended to read as follows:

§ 2.1 Definitions.

* * * * *

Aeronautical utility mobile station. A mobile station used for communication at airdromes with the aeronautical utility land station, the airdrome control station, the FAA flight service station, ground vehicles, and aircraft on the ground.

* * * * *

2. In § 87.5 the definition, "Aeronautical utility mobile station", is amended to read as follows:

§ 87.5 Definition of terms.

* * * * *

Aeronautical utility mobile station. A mobile station used for communication at airdromes with the aeronautical utility land station, the airdrome control station, the FAA flight service station, ground vehicles, and aircraft on the ground.

* * * * *

§ 87.183 [Amended]

3. Section 87.183(i) is amended by deleting the "A" designator next to the frequencies 121.600 through 121.925 MHz in the table of frequencies and by deleting the footnote "A" at the end of the table.

§ 87.401 [Amended]

4. Section 87.401(a) is amended by deleting the "A" designator next to the frequencies 121.600 through 121.925 MHz in the table of frequencies and by deleting the footnote "A" at the end of the table and showing it as "reserved".

5. Section 87.431 is amended to read as follows:

§ 87.431 Frequencies available.

(a) The frequencies 121.600 through 121.925 MHz listed in § 87.401(a) are available to aeronautical utility mobile stations. The other frequencies listed in § 87.401(a) may be assigned to aeronautical utility mobile stations only after direct coordination with the FAA.

(b) The frequency that will be assigned to the aeronautical utility station at an airport is the frequency that is used by the aeronautical utility land station, the airdrome control station or the FAA flight service station at the airport to communicate with ground vehicles.

6. A new § 87.432 is added to read as follows:

§ 87.432 Eligibility.

Authorization to operate an aeronautical utility mobile station will be issued only for operation at landing areas having an airdrome control tower or an FAA flight service station.

7. Section 87.433 is amended to read as follows:

§ 87.433 Scope of service.

Communications by an aeronautical utility mobile station shall be limited to the management of ground traffic at an airdrome.

8. Section 87.437, headnote and text, are amended to read as follows:

§ 87.437 Supervision by airdrome control operator or FAA flight service station operator.

Transmissions by the aeronautical utility mobile station shall be under control of the airdrome control station or the FAA flight service station and shall be discontinued immediately when so requested by either the airdrome control station or FAA flight service station. The aeronautical utility mobile station shall guard its assigned frequency during periods of operation. The aeronautical utility mobile stations at an airport shall cease to transmit when neither the airdrome control station nor the FAA flight service station are in operation.

[FR Doc.77-13510 Filed 5-11-77;8:45 am]

PART 73—RADIO BROADCAST SERVICES

Editorial Amendments to Use of Type Approved Antenna Monitors by AM Broadcast Stations Operating Directional Antenna Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends Rules and Regulations for AM broadcast stations using directional antenna systems by deleting all references to procedures for use by stations not having type approved antenna monitors in use. On January 10, 1973, the Commission adopted rules that required all AM broadcast stations with directional antennas to have type approved monitors in use no later than June 1, 1977. Rule references to stations not having the required monitors are being deleted as no longer necessary.

EFFECTIVE DATE: June 1, 1977.

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

FOR FURTHER INFORMATION CONTACT:
John W. Reiser, Broadcast Bureau, Telephone 202-632-9660.

SUPPLEMENTARY INFORMATION:
Adopted: April 28, 1977.

Released: May 3, 1977.

In the matter of Amendment of Part 73 of the Commission's Rules and Regulations in reference to the use of type approved antenna monitors by AM broadcast stations operating directional antenna systems.

1. On January 10, 1973, the Commission adopted a Report and Order (Docket No. 18471, FCC 73-60) adopting

standards for the type approval and installation of antenna monitors at AM broadcast stations operating directional antenna systems. The proceeding resulted in a new rule, Section 73.69, that included a note containing the schedule under which stations were to install type approved antenna monitors. All AM stations operating with directional antenna systems are to have the monitors installed prior to June 1, 1977. Effective that date, the schedule for installation of monitors by various classes of stations given in the note is unncessary, and by this Order is deleted.

2. Prior to June 1, 1977, some stations did not have type approved antenna monitors installed and therefore there were alternative provisions in the operating log and maintenance log rules for the monitor and other meter reading entries. Since all stations with directional antennas are now expected to have type approved monitors installed and in use, the alternative logging requirements are no longer necessary, and editorial amendments are made in both the operating and maintenance log rules to delete all references for monitor and meter readings at stations not having type approved antenna monitors. Editorial changes are also made in § 73.113 (a)(2) of the operating log requirements to indicate that the antenna monitor indications of sample currents or indications of their ratios are to be entered in the operating log, rather than base currents. This editorial revision does not add any additional logging requirements, but rather deletes the alternative procedures for base current readings that were applicable to stations that previously may not have had type approved antenna monitors in use.

3. In addition to the required editorial amendments in the operating and maintenance log rules discussed above, there are additional references in § 73.66(d) concerning remote control authorizations, § 73.68 (b) and (d), and §73.69(b) concerning antenna monitors and monitor sampling systems that differentiate between remotely controlled stations with remote indications of phases from a type approved antenna monitor and those stations not having such remote control indications. Sections 73.66(d), 73.68 (b)(3) and (d)(2), and 73.68(b)(2) are being editorially amended. Sections 73.68(d)(4) and 73.69(d)(4) are being deleted entirely as no longer applicable.

4. We are also by this Order deleting the parenthetical term "phase" from the headnotes of §§ 73.68 and 73.69 in reference to antenna monitors.

5. We conclude that, for the reasons set forth above, adoption of these amendments will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issues upon which comments would serve any useful purpose.

6. Therefore, *It is ordered*, That, pursuant to Sections 4 and 303 of the Communications Act of 1934, as amended, Part 74, Subpart D, of the Commission's Rules and Regulations are amended as set forth below, effective June 1, 1977.

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

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

1. In § 73.66, paragraph (d) is amended to read as follows:

§ 73.66 Remote control authorization.

* * * * *

(d) Stations not having an approved antenna sampling system shall include in their applications for authority to operate a directional antenna transmitting system by remote control showings describing the stability of the antenna system during the one-year period preceding the filing as specified on FCC Form 301-A. Stations having the indications of antenna phases and sample currents or current ratios provided by an approved sampling system (see § 73.68 (a)) are not required to submit Section II of FCC Form 301-A for application for authority to operate by remote control.

2. In § 73.68, the headnote and paragraphs (b)(3) and (d)(2) are amended, and paragraph (d)(4) is deleted as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(b) * * *

(3) That the readings and maintenance log entries specified in § 73.114 (a)(8) be made.

* * * * *

(d) * * *

(2) The base currents, their ratios, and the deviations of those ratios, in percent, from values specified in the station authorization shall be determined and entered in the maintenance log once each day for each radiation pattern used.

* * * * *

(4) [Deleted]

* * * * *

3. In § 73.69, paragraph (b)(2) is amended, and paragraph (b)(4) and the Note following paragraph (e) are deleted as follows:

§ 73.69 Antenna monitors.

* * * * *

(b) * * *

(2) The base currents, their ratios, and the deviations of those ratios, in percent, from the values specified in the station authorization shall be determined and entered in the maintenance log once each day for each radiation pattern used.

* * * * *

(4) [Deleted]

* * * * *

(e) * * *

NOTE.—[Deleted]

4. In § 73.113, paragraph (a)(2) is amended and paragraph (a)(3) is deleted as follows:

§ 73.113 Operating log.

(a) * * *

(2) For stations with directional antennas, the following additional indications shall be read either directly or by remote control and entered in the operating log at the time of commencement of operation in each mode and thereafter, at successive intervals not exceeding three hours in duration.

(i) Antenna monitor phase indications.

(ii) Antenna monitor sample currents or current ratio indications.

* * * * *

5. In § 73.114, paragraph (a)(8) is amended and paragraph (a)(9) is deleted as follows:

§ 73.114 Maintenance log.

(a) * * *

(8) For stations with directional antennas, entries shall be made in the maintenance log, based on observations made without modulation, if instrument readings are affected by modulation for each directional radiation pattern used at least three days of each calendar week taken not less than 44 hours nor more than 76 hours apart. The date and time of each observation shall be shown. The entries are as follows:

(i) Common point current.

(ii) Base currents, their ratios, and the deviations of those ratios, in percent, from values specified in the station authorization.

(iii) Antenna monitor sample currents and computed ratios or the indicated ratios of those currents, and the deviations of such ratios, in percent, from values specified in the station authorization.

NOTE.—Stations not operated by remote control and having a radio-telephone first-class operator on duty at the transmitter for all periods of operation with a directional radiation pattern, and the station authorization permits antenna base current readings at less frequent intervals than specified in this paragraph, entries may be made pursuant to the schedule specified in that authorization.

* * * * *

[FR Doc.77-13584 Filed 5-11-77;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket Nos. 73-19, 74-11; Notices 14, 17]

PART 581—BUMPER STANDARD

Damageability Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Response to Petitions for Reconsideration.

SUMMARY: This notice responds to petitions for reconsideration of the March 4, 1976, FEDERAL REGISTER notice (41 FR

9346) establishing a new bumper standard that limits damage to vehicle bumpers and other vehicle surfaces in low-speed crashes.

EFFECTIVE DATE: September 1, 1978.

ADDRESS: Petitions should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Tim Hoyt, Office of Crashworthiness, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2264.

SUPPLEMENTARY INFORMATION: The standard, 49 CFR Part 581, issued under the authority of Title I of the Motor Vehicle Information and Cost Savings Act, Public Law 92-513, 15 U.S.C. 1901-1991, limits damage to non-safety related components and vehicle surfaces and incorporates the safety-related damage criteria of the current Standard No. 215, Exterior Protection (49 CFR Part 571.215). Under the new standard, all vehicles manufactured on or after September 1, 1978, must be capable of undergoing prescribed pendulum and barrier crash tests while experiencing damage only to the vehicle bumper and those components that attach it to the vehicle frame. Vehicles manufactured on or after September 1, 1979, must be capable of undergoing the same tests while experiencing no damage to vehicle exterior surfaces except on the bumper, where dents not exceeding $\frac{3}{8}$ inch and set not exceeding $\frac{3}{4}$ inch may occur.

Petitions for reconsideration were received from General Motors (GM), Ford, Chrysler, American Motors Corporation (AMC), Gulf and Western, Nissan, and Leyland Cars. The issues raised by petitioners focused primarily on Part 581's cost-benefit basis, its leadtime, and its damage criteria.

GM, Ford, Chrysler, AMC, Nissan, and Gulf and Western stated that the National Highway Traffic Safety Administration (NHTSA) failed to present evidence that Part 581 would be cost beneficial. Ford stated that the record supporting Part 581 gives no assurance that the public will realize incremental savings once the standard is implemented. Chrysler, Nissan, and Gulf and Western cited cost and weight increases which they alleged would impose additional burdens on car owners over and above those presently experienced. AMC complained that the provision for escalating the bumper requirements after one year would result in costly and complex bumper designs, since such a schedule would prohibit the optimization of bumper systems.

Petitioners requested that the agency demonstrate that the requirements of Part 581 will provide cost savings greater than those currently provided by Standard No. 215, Exterior Protection. It was suggested by GM, AMC, and Ford that the agency undertake field studies to gather data to support the Part 581 standard. Several manufacturers suggested that implementation of Part 581 be postponed until such time as a field study is completed.

Petitioners' arguments have been raised in past comments to FEDERAL REGISTER notices proposing a Part 581 bumper standard. The NHTSA found them unpersuasive then and hereby rejects them once again. The NHTSA and Houdaille Industries conducted cost benefit studies on compliance with the Part 581 bumper requirements. The studies indicate that bumper systems using current technology and designed to meet the standard's requirements will provide a favorable cost-benefit ratio. Petitioners have not presented evidence that effectively disputes the conclusions reached in these studies.

Conducting field studies as a means of gathering evidence to support implementation of the Part 581 standard is unrealistic and would not demonstrate as accurately as the Houdaille and NHTSA studies the positive cost-saving potential of the standard. Many manufacturers are continuing to comply with the current Standard 215 bumper requirements by means of inefficient, unoptimized bumpers. Data gathered on these systems thus would not indicate the full possibilities of bumpers specifically designed to meet the Part 581 requirements in an efficient manner. Once manufacturers start utilizing the technology and materials available to them the full benefits of the Part 581 bumper standard can be realized. Until such time, however, manufacturers have it within their power to cause field study results to be misleading and unrepresentative of the potential of Part 581.

The NHTSA has ample evidence in the record that manufacturers are capable of meeting the requirements of Part 581. It also has evidence that compliance can be achieved in a cost-efficient manner. There has been no evidence presented by any of the petitioners that the standard would have a negative cost-benefit impact if met in the ways outlined by Houdaille and the NHTSA in their studies. The agency therefore rejects the cost-benefit objections raised by petitioners.

AMC requested additional leadtime to meet the requirements of Part 581. It contended that it needs 36 months' leadtime to comply with Part 581. It asked that the initial effective date of the standard be delayed until September 1, 1979.

The NHTSA finds AMC's request without merit. The 30-month leadtime for the initial requirements and the 42-month leadtime for the final requirements is considered adequate for compliance. No other manufacturers have expressed concern over attaining the level of performance prescribed for 1978, and evidence in the record indicates that most vehicles already come close to satisfying the specified damage criteria. The request of AMC is therefore denied.

General Motors objected in its petition to the prescribed escalation of the bumper requirements for September 1, 1979, only 1 year after the standard's initial effective date. It stated that compliance with two sets of bumper requirements within such a short period of time would result in unrecoverable costs relating to research, design, development, and tooling, and would inhibit the feasibility of optimizing its bumper systems.

Ford Motor Company stated that it plans to redesign its passenger cars for 1981 due to the requirements of the Energy Policy and Conservation Act (Pub. L. 94-163) and associated legislation. Ford explained that compliance with Part 581 will entail some redesign. It therefore requested that the bumper standard's effective date be delayed until September 1, 1980, so that these necessary redesigning efforts can be accomplished simultaneously.

The agency has found both General Motors' and Ford's requests persuasive. It has therefore issued a notice proposing to delay for 1 year the implementation of the second phase of bumper requirements from September 1, 1979, until September 1, 1980. This action does not conform exactly to Ford's request. However, the NHTSA does not know of any vehicles that would require major design changes until implementation of the more stringent second phase requirements.

Filler panels and stone shields were identified in the March 4, 1976, final rule as exterior vehicle surfaces that must experience no damage as a result of the prescribed test impacts. GM, Chrysler, and AMC objected to this interpretation of the level of damage resistibility filler panels and stone shields must achieve. GM contended that these components are part of the bumper system and provide the transition between the bumper face bar and body panels. It stated that bumper stroke causes unavoidable surface scratches, abrasions, and displacements, which could be eliminated only by using expensive materials and mounting techniques. Chrysler pointed out that filler panels are designed to flex during bumper impacts and may not return to exactly their original contour. According to AMC, however, once a deformed bumper is repaired following an impact, the flexible filler panel will return to its original contour. All three manufacturers requested that filler panels be permitted to sustain some degree of damage during testing.

The agency has reexamined the role of filler panels and stone shields in the bumper system and finds that although they do not actually hold the bumper to the vehicle frame, they are cosmetic components that are part of the entire system that performs the task of attaching the bumper to the frame of the car.

The NHTSA has concluded that permitting damage to filler panels and stone shields will not significantly degrade the level of performance required for vehicles manufactured after September 1, 1978. The flexibility of the filler panel and stone shield material enables it to withstand deforming impacts without permanently losing its shape, but as long as the bumper and components attach-

ing it to the vehicle frame are permitted to sustain damage as a result of impacts, the filler panel and stone shield may likewise sustain some degree of damage. Since these components are less visible than the bumper itself, the small amount of damage that they will incur will normally not be as significant as that allowed to the bumper. Therefore, filler panels and stone shields on vehicles manufactured from September 1, 1978, to August 31, 1979, will be permitted to sustain damage during the prescribed test impacts. This, in essence, grants the requests of petitioners. The agency will address in an upcoming notice the application of damage criteria to stone shields and filler panels on vehicles manufactured after September 1, 1979.

Ford and Chrysler charged that the Part 581 damage criteria are impracticable and lacking in objectivity. Specifically, they objected to the criteria that allow no separations or deviations, and require certain systems to operate in a normal manner. According to petitioners, these criteria are not objective since the requirements of no separations and no deviations can be interpreted as meaning that even the most microscopic deviations and separations are prohibited, or alternatively that only those deviations that are readily apparent are prohibited. With regard to the requirement that certain systems operate in a normal manner, petitioners stated that the meaning of "normal" is unclear and can be interpreted differently by different people. Ford and Chrysler expressed concern that the agency will interpret the meaning of these damage criteria in a manner conflicting with their interpretation. To resolve the situation to which it is objecting, Chrysler suggested that the requirements be revised to allow minimal and inconsequential deviations, while Ford suggested that the agency withdraw S5.3.2 and S5.3.5 and parts of S5.3.3, S5.3.8, S5.3.10, and S5.3.11 pending development of objective criteria to enable manufacturers to predict accurately whether their vehicles will comply.

The agency understands the petitioners' concerns, but finds that a simple interpretation of the cited requirements is adequate to satisfy their objections. The damage criteria allowing no deviations and no separations are not intended to apply to microscopic changes in the vehicle following test impacts. The types of deviations and separations addressed by Part 581 are those that are perceptible without the use of sophisticated magnifying or measuring equipment. What is required is that the vehicle not reflect any normally observable changes in the stated areas following the prescribed test procedure. Damage that is only identifiable by use of microscopically-oriented equipment would not be considered as prohibited under Part 581.

With regard to the requirement that a vehicle's hood, trunk, and doors operate in the normal manner, the standard is simply providing that these systems continue to operate following the test impacts in the same manner as they did before the impacts. This requirement has been a part of Standard No. 215, Exterior Protection, since its implementation on September 1, 1972. No compliance controversies have ever arisen concerning it.

Leyland Cars and AMC requested that the requirements of S5.3.11, allowing no more than ¾-inch set and ⅜-inch dent to the bumper face bar, be made applicable to the component that backs up the bumper face bar. Leyland Cars explained that some of its bumpers are covered by a rubber or plastic molding which, under Part 581, would be considered as the bumper face bar. It requested that the component over which the molding is placed be permitted to sustain the same degree of set allowed for the bumper face bar. AMC asked that the component underlying the molding be permitted to experience dents up to ⅜ inch as is the bumper face bar.

The NHTSA finds petitioners' concerns unfounded. The prohibition against set and denting applies to vehicle exterior surfaces. From the description of the component supplied by Ford and Chrysler it appears that it is completely covered by the molding and is not an exterior surface area of the vehicle. Therefore, it may experience damage during test impacts. The molding enveloping the reinforcement would represent the exterior surface that is subject to the requirements of S5.3.11.

Nissan and Gulf and Western objected to the prescribed limitations on set and denting contained in S5.3.11. Nissan requested that the damage criteria be revised to allow ½-inch dent and 1-inch set, instead of the currently required ⅜-inch dent and ¾-inch set. It was Nissan's contention that such a revision would cause only a slight change in the appearance of a damaged vehicle, while enabling a considerable change in a vehicle's cost and weight. Gulf and Western alleged that there was no economic justification for the ⅜-inch dent and ¾-inch set requirements since they are based solely upon a public opinion poll. It requested that the Part 581 requirements not be implemented until an economic justification is presented.

The NHTSA finds both Nissan's and Gulf and Western's requests lacking in merit. A survey conducted by Louis Harris & Associates of public reaction to various degrees of bumper damage showed that a significant number of people consider ½-inch dents to be damage they would repair. Based upon this information and cost and weight data contained in the various studies upon which the agency relied in the formulation of the standard, it has been determined that the amendment requested by Nissan would adversely affect the results to be achieved by implementation of the Part 581 bumper standard. The results of the Harris survey have definite economic significance in that those individuals indicating that a certain degree of damage was significant enough that they would have it repaired were providing the pollster with cost data. Damage that is repaired will have a financial impact on the car owner. By the same token, damage that is detectable but unrepaired will affect the market value of the vehicle and thereby have an economic impact on the car owner. These cost factors were all considered in deciding on the ⅜- and ¾-inch damage limitations. For these reasons, the requests of Nissan and Gulf and Western are denied.

Chrysler objected to the procedure prescribed for measuring the depth of bumper dents (S5.3.11(b)), charging that it is unreasonable, inaccurate, and lacks objectivity. Chrysler alleged that the end points of the straight line described in the test procedure for connecting the bumper contours adjoining the contact area are locations that are subjective on bumper face bars with compound curvature. It also charged that the specified measurement method lacks objectivity and can be used only for determining the depth of dents in flat surfaces. Chrysler requested that the agency clarify the provision.

Although the objections raised by Chrysler illustrate that some configurations are more difficult to measure than others, it is the agency's judgment that the method described in S5.3.11(b) is valid and still the most feasible means of determining the extent of damage. Location of the end points of the straight line used to measure the depth of bumper dents does not, in the opinion of the NHTSA, pose a problem. In order to to establish the exact location of the end points, the manufacturer may either paint or chalk the pendulum test device. In this way, the pendulum will leave a mark on the precise area of contact.

With regard to Chrysler's objections concerning the measurement of dents, it should be noted that the straight line measurement technique is not necessarily a test procedure. Rather, the language specifying that a deviation from original contour not exceed ⅜-inch when measured from a straight line connecting the bumper contour adjoining the contact area should be considered a definition of a dent. Deformations outside the contact area on the bumper surface, such as recessions of a larger area of the bumper, are defined as set.

The agency realizes that the measurement of dent and set on some bumpers with complex curvature may not be a simple procedure. In such cases, the testers must use measurement procedures that will enable them to accurately measure the degree of dent the bumper has incurred. In situations involving a concave face bar, a reference line can be established by placing a straight line across the area of contact prior to impact. After completion of the actual impact the change in bumper contour can be measured from the previously established reference line. In situations involving a convex face bar, or more complex surfaces, it may be necessary for the manufacturer to remove the bumper following impact in order to compare it with an unimpacted bumper, or to make a cast of the preimpact bumper for comparison with the bumper following the prescribed testing.

Chrysler also requested that S5.3.11 be amended to specify that bumper set be measured relative to the vehicle frame in perpendicular, parallel, and vertical directions with respect to the vehicle's longitudinal centerline. It stated that such a revision would reduce the task of measuring permanent set to a reasonable level.

The NHTSA denies this request since Chrysler has presented no information indicating that the currently prescribed measurement procedure is unfeasible. The agency knows of no reason why reference lines relative to the vehicle frame cannot be established from which bumper set can be measured. To adopt Chrysler's suggested method for measurement would unduly complicate the procedure since determination of the vehicle longitudinal centerline is complex.

GM charged that the NHTSA's definition of bumper face bar may include license plate brackets that are attached to the vehicle bumper, since these components may contact the impact ridge of the pendulum test device. If identified as the bumper face bar, these license plate brackets would be required to meet the level of performance prescribed for bumpers. According to GM, such a result would be extremely costly. License plate brackets capable of complying with the bumper damage criteria would be expensive to produce as well as to replace. This, in GM's opinion, would have a negative cost-benefit impact.

While the NHTSA agrees that licence plate brackets should not be required to meet the damage criteria of the bumper face, the NHTSA believes that it is good design practice to locate license plates in an area other than the bumper face. However, recognizing the limited space available on the front of some cars for license plate placement, the NHTSA is reluctantly willing to grant GM's petition on this point. The agency will, in the future, review industry practice on the placement of license plates on new automobiles in an effort to determine if future rulemaking on this matter would be desirable.

AMC requested in its petition that the NHTSA amend the requirements limiting the total force on planes A and B to 2,000 pounds (S5.3.7) to permit a force of 2,000 pounds on plane A below the impact ridge and a force of 2,000 pounds on the combined surfaces of planes A and B above the impact ridge. AMC based its request on the premise that the current requirement allows the full 2,000-pound force to be exerted either above or below the impact ridge of the test device. It pointed out that the NHTSA stated in an earlier notice that the 2,000-pound limit would prevent any substantial damage to the vehicle. Based upon this, AMC argued that allowing 2,000 pounds of force both above and below the impact ridge would not expose those surface areas to any greater force than would be allowed under the current requirements.

The NHTSA disagrees with AMC's contention. The force limitation contained in Part 581 is intended to assure that the primary force of the impact is directed at the bumper face bar. Although all 2,000 pounds of allowable force could be directed to the area either above or below the impact ridge, this total amount of force would not be a significant damage factor. However, if the areas covered by planes A and B were allowed to sustain a total force of 4,000 pounds, the focus of primary force on the bumper face bar would not be assured and the type of aggressive bumper system Part 581 is designed to prevent could be utilized. AMC's request is therefore denied.

AMC requested that Part 581 be amended to include a provision appearing in the January 2, 1975, proposal (40 FR 10) that stated a vehicle need not meet further requirements after having been subjected to either the longitudinal pendulum impacts followed by the barrier impacts, or the corner pendulum impacts.

The agency has stated in past notices that a vehicle will be involved in an average of three low-speed collisions in its 10-year life. There is no way to predict which portion of the bumper will be affected in these impacts. Therefore, it was decided that vehicles should be required to meet the prescribed damage criteria when subjected to the entire series of test impacts. To provide otherwise would be to establish a level of performance lower than necessary to protect a vehicle from the full range of potentially damaging impacts it is likely to incur during its on-road life. It was for this reason that the provision appearing in the January 2, 1975, proposal was not adopted. It is for this same reason that the agency denies AMC's request.

The text of the Title I bumper standard has in previous notices and the March 4, 1976, final rule been published in the format of a motor vehicle safety standard. Since the bumper standard is actually an entire part within Chapter V of the Code of Federal Regulations the format must be changed in order that it may be properly codified. The content of this standard will remain the same. This notice, however, revises the numbering system so that it conforms to the Code of Federal Regulations format.

The principal authors of this notice are Guy Hunter, Office of Crashworthiness, and Karen Dyson, Office of Chief Counsel.

In light of the foregoing, 49 CFR Part 581, is amended and recodified to read as set forth below.

Effective date: September 1, 1978.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912); delegation of authority at 49 CFR 1.50.)

Issued on May 4, 1977.

JOAN CLAYBROOK,
Administrator.

§ 581.1 Scope.

This standard establishes requirements for the impact resistance of vehicles in low speed front and rear collisions.

§ 581.2 Purpose.

The purpose of this standard is to reduce physical damage to the front and rear ends of a passenger motor vehicle from low speed collisions.

§ 581.3 Application.

This standard applies to passenger motor vehicles other than multipurpose passenger vehicles.

§ 581.4 Definitions.

All terms defined in the Motor Vehicle Information and Cost Savings Act, P.L. 92-513, 15 U.S.C. 1901-1991, are used as defined therein.

"Bumper face bar" means any component of the bumper system that contacts the impact ridge of the pendulum test device.

§ 581.5 Requirements.

(a) *Vehicles manufactured on or after September 1, 1978.* Each vehicle manufactured on or after September 1, 1978, shall meet the damage criteria of S5.3.1 through S5.3.9 when impacted by a pendulum-type test device in accordance with the procedures of S7.2 under the conditions of S6, at an impact speed of 3 mph, and when impacted by a pendulum-type test device in accordance with the procedures of S7.1 at 5 mph, followed by impacts into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of S6, at 5 mph.

(b) *Vehicles manufactured on or after September 1, 1979.* Each vehicle manufactured on or after September 1, 1979, shall meet the damage criteria of S5.3.1 through S5.3.7, and S5.3.9 through S5.3.11, when tested in accordance with the requirements of S5.1.

(c) *Protective criteria.*

(1) Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S4.3.1.1 of Standard No. 108 (§ 571.108 of this part). The aim of each headlamp shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599b, July 1970, measured with a mechanical aimer conforming to the requirements of SAE Standard J602a, July 1970.

(2) The vehicle's hood, trunk, and doors shall operate in the normal manner.

(3) The vehicle's fuel and cooling systems shall have no leaks or constricted fluid passages and all sealing devices and caps shall operate in the normal manner.

(4) The vehicle's exhaust system shall have no leaks or constrictions.

(5) The vehicle's propulsion, suspension, steering, and braking systems shall remain in adjustment and shall operate in the normal manner.

(6) A pressure vessel used to absorb impact energy in an exterior protection system by the accumulation of gas pressure or hydraulic pressure shall not suffer loss of gas or fluid accompanied by separation of fragments from the vessel.

(7) The vehicle shall not touch the test device, except on the impact ridge shown in Figures 1 and 2, with a force that exceeds 2000 pounds on the combined surfaces of Planes A and B of the test device.

(8) For vehicles manufactured from September 1, 1978 to August 1, 1979, the exterior surfaces shall have no separations of surface materials, paint, polymeric coatings, or other covering materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact, except where such damage occurs to the bumper face bar and the components and associated fasteners that directly attach the bumper face bar to the chassis frame.

(9) Except as provided in S5.3.8, there shall be no breakage or release of fasteners or joints.

(10) For vehicles manufactured on or after September 1, 1979, the exterior surfaces, except for the bumper face bar, shall have no separations of surface materials, paint, polymeric coatings, or other materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact.

(11) Thirty minutes after completion of each pendulum and barrier impact test, the bumper face bar shall have—

(i) No permanent deviation greater than ¾ inch from its original contour and position relative to the vehicle frame; and

(ii) No permanent deviation greater than ⅜ inch from its original contour on areas of contact with the barrier face or the impact ridge of the pendulum test device measured from a straight line connecting the bumper contours adjoining any such contact area.

§ 581.6 Conditions.

The vehicle shall meet the requirements of S5 under the following conditions.

(a) *General.*

(1) The vehicle is at unloaded vehicle weight.

(2) The front wheels are in the straight ahead position.

(3) Tires are inflated to the vehicle manufacturer's recommended pressure for the specified loading condition.

(4) Brakes are disengaged and the transmission is in neutral.

(5) Trailer hitches and license plate brackets are removed from the vehicle.

(b) *Pendulum test conditions.* The following conditions apply to the pendulum test procedures of S7.1 and S7.2.

(1) The test device consists of a block with one side contoured as specified in Figure 1 and Figure 2 with the impact ridge made of A1S1 4130 steel hardened to 34 Rockwell "C." The impact ridge and the surfaces in Planes A and B of the test device are finished with a surface roughness of 32 as specified by SAE Recommended Practice J449A, June 1963. From the point of release of the device until the onset of rebound, the pendulum suspension system holds Plane A vertical, with the arc described by any point on the impact line lying in a vertical plane (for S7.1, longitudinal; for S7.2, at an angle of 30° to a vertical longitudinal plane) and having a constant radius of not less than 11 feet.

(2) With Plane A vertical, the impact line shown in Figures 1 and 2 is horizontal at the same height as the test device's center of percussion.

(3) The effective impacting mass of the test device is equal to the mass of the tested vehicle.

(4) When impacted by the test device, the vehicle is at rest on a level rigid concrete surface.

(c) *Barrier Test Condition.* At the onset of a barrier impact, the vehicle's engine is operating at idling speed in accordance with the manufacturer's specifications. Vehicle systems that are not necessary to the movement of the vehicle are not operating during impact.

§ 581.7 Test Procedures.

(a) *Longitudinal Impact Test Procedures.*

(1) Impact the vehicle's front surface and its rear surface two times each with the impact line at any height from 16 to 20 inches, inclusive, in accordance with the following procedure.

(2) For impacts at a height of 20 inches, place the test device shown in Figure 1 so that Plane A is vertical and the impact line is horizontal at the specified height.

(3) For impacts at a height between 20 inches and 16 inches, place the test device shown in Figure 2 so that Plane A is vertical and the impact line is horizontal at a height within the range.

(4) For each impact, position the test device so that the impact line is at least 2 inches apart in vertical direction from its position in any prior impact, unless the midpoint of the impact line with respect to the vehicle is to be more than 12 inches apart laterally from its position in any prior impact.

(5) For each impact, align the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes Plane A of the test device and with the test device inboard of the vehicle corner test positions specified in S7.2.

(6) Move the test device away from the vehicle, then release it to impact the vehicle.

(7) Perform the impacts at intervals of not less than 30 minutes.

(b) *Corner impact test procedure.*

(1) Impact a front corner and a rear corner of the vehicle once each with the impact line at a height of 20 inches and impact the other front corner and the other rear corner once each with the impact line at any height from 16 to 20 inches, inclusive, in accordance with the following procedure.

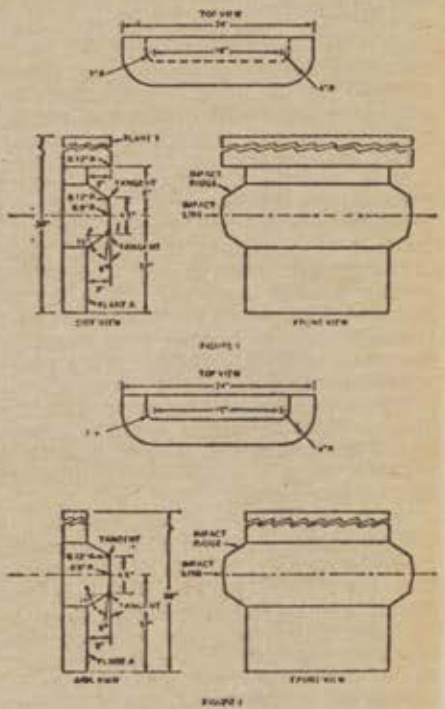
(2) For an impact at a height of 20 inches, place the test device shown in Figure 1 so that Plane A is vertical and the impact line is horizontal at the specified height.

(3) For an impact at a height between 16 inches and 20 inches, place the test device shown in Figure 2 so that Plane A is vertical and the impact line is horizontal at a height within the range.

(4) Align the vehicle so that a vehicle corner touches, but does not move, the lateral center of the test device with Plane A of the test device forming an angle of 60 degrees with a vertical longitudinal plane.

(5) Move the test device away from the vehicle, then release it to impact the vehicle.

(6) Perform the impacts at intervals of not less than 30 minutes.



[FR Doc.77-13235 Filed 5-5-77;4:47 pm]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

National Elk Refuge

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule is a special regulation which will permit sport fishing on the Gros Centre River and Flat Creek on the National Elk Refuge, as per State fishing orders. The reason for this opening is to provide a fishing recreational opportunity on this refuge.

EFFECTIVE DATES: May 31 through October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Pearson, National Elk Refuge, P.O. Box C, Jackson, Wyoming 83001 (307-733-2627).

SUPPLEMENTARY INFORMATION: Sport fishing will be done in accordance with all applicable State regulations plus the following special condition:

(1) Use of boats or other floating devices is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuges, which are generally set forth in Title 50, Code of Federal Regulations, Part 33.

The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

ROBERT L. PEARSON,
Acting Refuge Manager, National Elk Refuge, Jackson, Wyoming.

MAY 2, 1977.

[FR Doc. 77-13595 Filed 5-11-77;8:45 am]

Title 7—Agriculture

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

[Navel Orange Regulation 413]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to fresh market during the weekly regulation period May 13-19, 1977. This regulation is needed to provide for orderly marketing of fresh navel oranges for the regulation period because of the production and marketing situation confronting the navel orange industry.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such navel oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of navel oranges that may be marketed during the specified week stems from the production and marketing situation confronting the navel orange industry.

(i) The committee has submitted its recommendation for the quantity of navel oranges it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for navel oranges continues to be fairly good, except for larger sized fruit. Average f.o.b. price was $3.56 per carton on a reported sales volume of 973 carlots last week, compared to $3.68 per carton on sales of 1,028 carlots a week earlier. Track and rolling supplies at 252 cars were down 194 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of navel oranges which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for navel oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of navel oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 10, 1977.

§ 907.713 Navel Orange Regulation 413.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period May 13, 1977, through May 19, 1977, are hereby fixed as follows:

(i) District 1: 1,050,000 cartons;

(ii) District 2: Unlimited Movement;

(iii) District 3: Unlimited Movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: May 11, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13849 Filed 5-11-77;11:48 am]

[Valencia Orange Regulation 555]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 13-19, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3345.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is gradually improving. Average f.o.b. price was $3.33 per carton on 254

cars for the week ended May 5, as compared with $3.16 per carton on 178 cars the previous week. Track and rolling supplies at 193 cars were up 38 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on May 10, 1977.

§ 908.855 Valencia Orange Regulation 555.

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 13, 1977, through May 19, 1977, are hereby fixed as follows:

(i) District 1: 220,808 cartons;

(ii) District 2: 189,220 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–49, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 11, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13850 Filed 5-11-77;11:48 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 441.2]

PART 1832—EMERGENCY LOANS

Subpart A—Emergency Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration amends its regulations to add a provision to allow authorization of Emergency Drought Impact Area(s) (EDIA) by the Interagency Drought Emergency Coordinating Committee. Amendment is intended to expedite the designation of Emergency Loan Areas and will result in a more efficient handling of emergency situations.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James E. Lee, 202–447–6157.

SUPPLEMENTARY INFORMATION: §1832.10 of Subpart A, Part 1832, Title 7, Code of Federal Regulations (40 FR 42321) is amended to add a new paragraph (e). It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment not withstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to expedite the lending procedure in drought areas by allowing FmHA employees to take EM loan applications in areas designated by the Interagency Drought Emergency Coordinating Committee, and to process the same under Subpart A of Part 1832 (except for the provisions of §1832.3(k)) and Part 1888 of this Chapter. Proposed rulemaking's notice and comment procedure would be contrary to the public interest in that the delay caused by the procedure in providing the assistance afforded by this amendment to eligible disaster victims would possibly cause financial hardships to many such victims. Such delay may also cause an adverse effect on the local economy of areas affected by the disasters.

Accordingly §1832.10 is amended by the addition of paragraph (e) to read as follows:

§ 1832.10 Making EM Loans available.

* * * * *

(e) *Designation of an Emergency Drought Impact Area (EDIA).* (1) The Interagency Drought Emergency Coordinating Committee pursuant to a Memorandum of Agreement published at 42 FR 21855 may designate an EDIA as eligible for EM loan assistance.

(2) FmHA is authorized to make EM loans under such an EDIA designation. EM loans may be made under this Subpart A (except for the provisions of § 1832.3(k)) and Part 1888 of this Chapter. A Drought designation number will be assigned for each separate designation.

(3) When an EDIA is designated, the methods for designation in §1832.10 (a), (b), (c), and (d) will not apply.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: May 5, 1977.

DENTON E. SPRAGUE,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-13516 Filed 5-11-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13477]

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

PART 249—FORMS, SECURITIES AND EXCHANGE ACT OF 1934

Issuers Reporting to Certain Other Federal Agencies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission amends and rescinds various rules and forms with the effect that those registrants who currently file copies of their reports submitted to the Interstate Commerce Commission, Federal Power Commission, Federal Communications Commission, and Civil Aeronautics Board in lieu of the Commission's regular annual and quarterly report forms are now required to file reports in compliance with such forms and the regulations governing such reports.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul A. Belvin, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–755–1750).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announces the adoption of amendments to Rules 13a–13 (17 CFR 240.13a–13), 14a–3 (17 CFR 240.14a–3), 14c–3 (17 CFR 240.14c–3), and 15d–13 (17 CFR 240.15d–13), and the revocation of Rule 13b–1 (17 CFR 240.13b–1) and annual report Form 12–K (17 CFR 249.312) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). These amendments were proposed for comment on September 3, 1976 in Securities Exchange Act Release No. 12769 (41 FR 39048). Many helpful

comments were received from the public. The Commission has given careful consideration to these comments.[1]

BACKGROUND AND DISCUSSION

Section 13(b) of the Exchange Act authorizes the Commission to prescribe the form or forms in which the information required pursuant to the continuous disclosure provisions of the Exchange Act shall be set forth and, in general, to prescribe the appropriate methods of accounting to be used by registrants reporting on such forms.[2] Prior to the amendment of the Exchange Act pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976 (the "Railroad Act") (45 U.S.C. 801 (February 5, 1976)), the broad authority granted to the Commission in section 13(b) was restricted by two important qualifications which (1) limited the Commission's authority to prescribe methods of accounting to be used in reports filed with the Commission when the registrants concerned are also under the jurisdiction of other federal laws or regulations which prescribe their accounting methods; and (2) mandated that the Commission allow ICC regulated companies, and other carriers similarly regulated, to file copies of reports submitted to the ICC, or other federal agency, in lieu of the reports otherwise required pursuant to section 13(b).

These restrictions were removed from section 13(b) pursuant to section 308(b) of the Railroad Act. As amended, section 13(b) now provides that Commission rules applicable to registrants whose methods of accounting are prescribed by other laws or regulations may be inconsistent with the disclosure requirements of the other agencies to the extent that the Commission determines that the public interest or the protection of investors so require.

In Securities Exchange Act Release No. 12769,[3] the Commission indicated that the significant differences in form and content between Forms 10-K (17 CFR 249.310) and 10-Q (17 CFR 249.308a) and the documents filed in lieu thereof suggest that the public interest and the protection of investors require that the current reporting scheme applicable to registrants who file reports with other federal agencies be withdrawn and proposed amendments and revocations of rules and forms to accomplish this purpose.[4] In response to these proposals, the Commission received 30 letters of comment representing each of the industries affected, with the exception of the airline industry.

The letters of comment received were directed primarily to the withdrawal of Form 12-K rather than presenting objections to specific types of disclosure which would be required to be presented in Forms 10-K or 10-Q if the proposals were adopted. Several commentators suggested that the disclosure gaps between Form 10-K and those reports filed on Form 12-K in lieu thereof, as noted in Release No. 12769, fail to recognize Commission Rules 14a-3 and 14c-3 with respect to information to be included in annual reports to stockholders[5] and the requirements of exchange listing agreements with respect to the disclosure of narrative information and certified financial statements. These commentators felt that the proposals therefore would result in duplicative reporting.

Initially, it should be noted that the issuers affected by the action announced today do not uniformly have a class of securities registered for trading on a national securities exchange nor are they all subject to the requirements of section 14 of the Exchange Act and Regulation 14A (17 CFR 240.14a-1 to 240.14a-101) thereunder. In addition, to the extent that narrative or financial information which meets the requirements of Form 10-K is included by the registrant in any reports to shareholders or any document filed with the Commission it may be incorporated by reference to a filed document.[6] Also, registrants which are subject to section 14 and file a definite proxy or information statement not later than 120 days after the close of the fiscal year need not prepare and provide Part II of Form 10-K.[7]

Several commentators indicated that the requirement that Form 10-K contain certified financial statements would place an undue burden on registrants. It appears to the Commission that a substantial majority of the interested parties already have occasion to obtain certified financial statements from independent auditors in connection with exchange listing agreements, bank financing arrangements or otherwise. Moreover, registrants which file reports with the FPC currently are required to include financial statements certified as prepared substantially in accordance with Regulation S-X (17 CFR 210) in their annual reports to stockholders pursuant to the rules as to use of Form 12-K.[8] Also, several of the industries affected today historically make one or more public offerings of their securities each year subject to the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and must prepare certified financial statements in connection with registration statements thereunder. In any event, the Commission believes that the benefits to investors from certified financial statements, including their comparability to other registrants and general familiarity to readers of financial statements, outweigh any additional expense to registrants.[9]

Based on the statutory amendments to section 13(b), its review of the reports filed as exhibits to Forms 12-K and 10-Q, and after consideration of the comments received, the Commission has concluded that the proposals announced in Release

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[1] In related action announced today the Commission requested public comment with respect to (1) the proper form and content of railroad industry disclosure guidelines; (2) uniform definition of deferred maintenance and appropriate standards for its quantification and disclosure; and (3) the appropriateness of betterment accounting in reports filed with the Commission and distributed to shareholders. Securities Exchange Act Release No. 34-13479 (April 28, 1977) (See FR Doc. 77-13493 under Securities and Exchange Commission in the Proposed Rules section of this issue.)

[2] Section 13(a) of the Act requires every issuer subject to the registration requirements of section 12 of the Act to file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, (1) such information and documents as the Commission shall require to keep reasonably current the information and documents filed under section 12 of the Act, and (2) such annual reports certified if required by the rules and regulations of the Commission by independent public accountants, and such quarterly reports as the Commission may prescribe. Each issuer which has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, is required to file such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the Act in respect of a security registered pursuant to section 12.

[3] Securities Exchange Act Release No. 12769 (September 3, 1976) (41 FR 39048).

[4] The Commission consulted with each of the interested agencies in the formulation of these proposals. Many of their comments have been incorporated into the current action.

[5] Several commentators erroneously indicated that the Commission's annual report rules require registrants filing on Form 12-K to include certified financials in their annual reports to stockholders. See Rules 14a-3(b)(3)(i) and 14c-3(a)(3)(i).

[6] See, Securities Act Release No. 5819 (March 18, 1977) (42 FR 16920), which amends Rule 24 of the Commission's rules of practice regarding incorporation by reference (17 CFR 201.24), as of July 1, 1977.

[7] General Instruction H to Form 10-K, 17 CFR 249.310.

[8] The Commission will accept financial schedules submitted to independent regulatory agencies for inclusion in the Form 10-K and 10-Q reports when these schedules comply with the requirements of Forms 10-K, 10-Q and Regulation S-X. For example, the Civil Aeronautics Board has recently adopted amendments to its Uniform System of Accounts and Reports for the express purpose of revising certain CAB schedules in order to meet the Commission's requirements and permit their incorporation into Commission filings. CAB Regulation ER 980 (December 23, 1976) (42 FR 19). It is not intended that the dual filing of schedules under these circumstances would be prevented.

[9] It was suggested by a number of railroad related commentators that lessor railroads and switching and terminal companies should be the subject of a broad exemption from the financial statements requirements of Forms 10-K and 10-Q. In related action announced today the Commission has specifically requested comment from interested parties regarding the appropriateness of providing an exemption from the financial statements requirements of Forms 10-K and 10-Q and the form and content of any such exemption. Securities Exchange Act Release No. 34-13478 (April 28, 1977) (See FR Doc. 77-13633 under Securities and Exchange Commission in the Proposed Rules section of this issue).

No. 12769 should be adopted as proposed.[16]

SYNOPSIS OF AMENDMENTS

Based on the above, the Commission has determined to adopt the proposals contained in Securities Exchange Act Release No. 12769 substantially as proposed. Therefore, Rule 13b–1 and Form 12–K are rescinded and those portions of Rules 13a–13 and 15d–13 which now provide that issuers who file quarterly or monthly reports with the ICC, FPC, FCC, or CAB may file such reports in lieu of Form 10–Q are deleted. Pursuant to these amendments, all registrants which report to the ICC, FPC, FCC, and CAB must now file annual and quarterly reports to the Commission in compliance with Forms 10–K and 10–Q and the regulations governing such reports.

The amendments to Rules 14a–3 and 14c–3 represent technical amendments necessitated by the withdrawal of Form 12–K.

DATE OF EFFECTIVENESS

The amendments to Rules 13a–13, 14a–3, 14c–3, and 15d–13, and the rescission of Form 12–K and Rule 13b–1 shall be effective for annual and quarterly fiscal periods ending on or after October 1, 1977.

STATUTORY AUTHORITY FOR AMENDMENTS

The foregoing amendments are adopted pursuant to sections 12, 13, 15 (d), and 23(a) of the Exchange Act. Pursuant to section 23(a) of the Exchange Act, the Commission has considered the effect that the amendments would have on competition and has concluded that, to the extent the amendments impose burdens on competition, such burdens are necessary and appropriate in furtherance of the purposes of the Exchange Act.

TEXT OF AMENDMENTS

I. Securities Exchange Act Rule 13a–13 is amended to read as follows:

§ 240.13a–13 Quarterly reports on Form 10–Q (§ 240.308a of this chapter).

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer which has securities registered pursuant to section 12 of the Act and which is required to file annual reports pursuant to section 13 of the Act on Form 10–K (§ 249.310 of this chapter) or U5S (§ 249.450 of this chapter) shall file a quarterly report on Form 10–Q (§ 249.308a of this chapter) within the period specified in General Instruction A to that form, for each of the first three fiscal quarters of each fiscal year of the issuer, commencing with the first such fiscal quarter which ends after securities of the issuer become so registered.

(b) The provisions of this rule shall not apply to the following issuers:

(1) Investment companies required to file quarterly reports pursuant to § 240.13a–12; or

(2) Foreign private issuers required to file reports pursuant to § 240.13a–16.

(c) Part I of the quarterly report on Form 10–Q need not be filed by the following issuers:

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t)(1)(i)(B) of § 210.3–16;

(2) Mutual life insurance companies; or

(3) Mining companies not in the production state but engaged primarily in the exploration for or the development of mineral deposits other than oil, gas, or coal, if all the following conditions are met:

(i) The registrant has not been in production during the current fiscal year or the two years immediately prior thereto; except that being in production for an aggregate period of not more than eight months over the three-year period shall not be a violation of this condition.

(ii) Receipts from the sale of mineral products or from the operations of mineral producing properties by the registrant and its subsidiaries combined have not exceeded $500,000 in any of the most recent six years and have not aggregated more than $1,500,000 in the most recent six fiscal years.

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10–Q shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

II. Securities Exchange Act Rule 14a–3 (17 CFR 240.14a–3) is amended to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(9) Management's proxy statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person solicited, on the written request of any such person, a copy of the issuer's annual report on Form 10–K (§ 249.310), including the financial statements and the schedules thereto, required to be filed with the Commission pursuant to Rule 13a–1 (§ 240.13a–1) under the Act for the issuer's most recent fiscal year and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, an issuer need not undertake to furnish without charge copies of all exhibits to its Form 10–K (§ 249.310) provided that the copy of the annual report on Form 10–K (§ 249.310) furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the issuer will furnish any exhibit upon the payment of a specific reasonable fee which fee shall be limited to the issuer's reasonable expenses in furnishing such exhibit.

NOTE.—Pursuant to the undertaking required by the above paragraph (b)(9), an issuer shall furnish a copy of its annual report on Form 10–K (§ 240.310) to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the annual meeting of the issuer's security holders, the person making the request was a beneficial owner of securities entitled to vote at such meeting.

* * * * *

III. Securities Exchange Act Rule 14c–3 (17 CFR 240.14c–3) is amended to read as follows:

§ 240.14c–3 Annual report to be furnished to security holders.

(a) * * *

(9) The information statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person furnished a copy of the information statement, on the written request of any such person, a copy of the issuer's annual report on Form 10–K (§ 249.310), including the financial statements and the schedules thereto, required to be filed with the Commission pursuant to Rule 13a–1 (§ 240.13a–1) under the Act for the issuer's most recent fiscal year and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, an issuer need not undertake to furnish without charge copies of all exhibits to its Form 10–K (§ 249.310) provided that the copy of the annual report on Form 10–K (§ 249.310) furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the issuer will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the issuer's reasonable expense in furnishing such exhibit.

NOTE.—Pursuant to the undertaking required by the above paragraph, an issuer shall furnish a copy of its annual report on Form 10–K (§ 249.310) to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the annual meeting of the issuer's security holders, the person making the request was a beneficial owner of securities entitled to vote at such meeting.

* * * * *

IV. Securities Exchange Act Rule 15d–13 (17 CFR 240.15d–13) is amended to read as follows:

[16] The Commission reminds those issuers affected by the action announced today that, pursuant to section 12(h) of the Act, the Commission may upon application of an interested party exempt in whole or in part any issuer or class of issuers from the provisions of section 12(g, 13, 14, or 15(d) if the Commission finds by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors.

§ 210.15d–13 Quarterly reports on Form 10–Q (§ 249.308a of this chapter).

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer which has securities registered pursuant to the Securities Act of 1933 and which is required to file annual reports pursuant to section 15(d) of the Securities Exchange Act of 1934 on Forms 10–K (§ 249.310) or U5S (§ 249.450) shall file a quarterly report on Form 10–Q (§ 249.308a of this chapter) within the period specified in General Instruction A to that form for each of the first three fiscal quarters of each fiscal year of the issuer, commencing with the first such fiscal quarter which ends after securities of the issuer become so registered.

(b) The provisions of this rule shall not apply to the following issuers:

(1) Investment companies required to file quarterly reports pursuant to § 240.-15d–12; or

(2) Foreign private issuers required to file reports pursuant to § 240.15d–16.

(c) Part I of the quarterly report on Form 10–Q need not be filed by the following issuers:

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t) (1) (i) (B) of § 210.3–16;

(2) Mutual life insurance companies; or

(3) Mining companies not in the production stage but engaged primarily in the exploration for or the development of mineral deposits other than oil, gas or coal, if all the following conditions are met:

(i) The registrant has not been in production during the current fiscal year or the two years immediately prior thereto; except that being in production for an aggregate period of no more than eight months over the three-year period shall not be a violation of this condition.

(ii) Receipts from the sale of mineral products or from the operations of mineral producing properties by the registrant and its subsidiaries combined have not exceeded $500,000 in any of the most recent six years and have not aggregated more than $1,500,000 in the most recent six fiscal years.

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10–Q shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

* * * * *

V. § 249.312 Form 12–K, annual report for issuers which file reports with certain other federal agencies. Form 12–K is hereby rescinded.

VI. § 240.13b–1 Carriers and other persons subject to federal regulation. Rule 13b–1 is hereby rescinded.

(Secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 78*l*, 78m, 78o(d), 78w(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77–13714 Filed 5–11–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

HANDLING OF LIMES GROWN IN FLORIDA

Quality and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: Consideration is being given to the following proposal which would regulate the handling of fresh limes grown in Florida by continuing on and after June 19, 1977, the same minimum quality and size requirements as are currently in effect through June 18, 1977. In the absence of the proposed amendment, quality and size regulation of Florida limes would expire on June 18, 1977.

DATES: Comments must be received on or before May 27, 1977. Proposed effective dates: June 19, 1977, through April 30, 1978.

ADDRESSES: Comments may be addressed to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made availablefor public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegeatble Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3545.

SUPPLEMENTARY INFORMATION: The proposed regulation would be established pursuant to the amended marketing agreement and Order No. 911, as amended, (7 CFR Part 911), regulating the handling of limes grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Mexican type limes shipped to destinations outside the production area would continue to be required to grade at least U.S. No. 2, with no color or minimum size requirements. Persian type limes shipped to such destinations would be required to grade at least U.S. No. 2, Mixed Color, and to measure at least 1¾ inches in diameter. Both types of limes shipped to destinations within the production area would continue to be exempted from pack, container, and grade requirements, except the minimum juice content requirement. Persian type limes so shipped would be required to be at least 1¾ inches in diameter.

The proposed regulation is based upon an appraisal of current and prospective crop and market conditions for Florida limes. Fresh shipments for the 1977-78 season are expected to equal about 500,000 bushels, as compared with shipments of about 790,000 bushels during the 1976-77 season. Shipments for the 1977-78 season began on April 1, 1977, and shipments in increased volume are being made as the season progresses. The regulation is designed to assure the handling of limes which provide consumer satisfaction and promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

Such proposal reads as follows:

1. The provisions of paragraph (a) of § 911.339 (Lime Regulation 37; 42 FR 21786) are hereby amended to read as follows:

§ 911.339 Lime Regulation 37.

Order. (a) During the period June 19, 1977, through April 30, 1978, no handler shall handle:

* * * * *

Dated: May 9, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13626 Filed 5-11-77;8:45 am]

[7 CFR Part 1207]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This notice invites written comments on proposed expenses of $2,350,000 and a rate of assessment of one cent per hundredweight of potatoes for the functioning of the National Potatoe Promotion Board. The regulation would enable the Board to collect assessments from designated handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

DATE: Comments due by May 27, 1977.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-3545.

SUPPLEMENTARY INFORMATION: The Potato Board is the administrative agency established under the Potato Research and Promotion Plan (7 CFR 1207). This program is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The proposals are as follows:

§ 1207.106 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1977, and ending June 30, 1978, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,350,000.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisions of the plan shall be one cent ($0.01) per hundredweight of assessable potatoes handled by him during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

Dated: May 6, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-13512 Filed 5-11-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-EA-28]

PROPOSED ALTERATION OF CONTROL ZONE & TRANSITION AREA

Aberdeen, Md.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to provide additional airspace (control zone, transition area) to protect aircraft ex-

ecuting approach and departure procedures for Phillips Army Air Field, Aberdeen Proving Ground, Maryland. A new VOR-A instrument approach has been developed for the air field.

DATE: Comments must be received on or before June 20, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

The official docket may be examined at the following location: Airspace and Procedures Branch, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. Telephone: 212-995-3391

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, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. All communications received on or before June 20, 1977, will be considered before action is taken on the proposed amendment. The proposals 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.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the notice 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.

THE PROPOSAL

The FAA is considering an amendment to Subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Aberdeen, Md., Control Zone and Transition Area. The FAA believes that this action would protect aircraft utilizing the approach and departure instrument procedures for Phillips Army Air Field.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Aberdeen, Md., Control Zone and Transition area, as follows:

§ 71.171 [Amended]

1. Amend Section 71.171 of Part 71 of the Federal Aviation Regulations by amending the description of the Aberdeen, Md. Control Zone as follows:

After the words, "northeast of the RBN" insert,"; within 3.5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 11.5 miles northeast of the VOR."

§ 71.181 [Amended]

2. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by adding the following to the description of the Aberdeen, Md. Transition Area: "; within 5 miles each side of the Phillips OR 033° radial, extending from the VOR to 13 miles northeast of the VOR."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13515 Filed 5-11-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1201]

ARCHITECTURAL GLAZING MATERIALS

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission proposes an amendment to the Safety Standard for Architectural Glazing Materials to extend the effective date as it applies to persons who incorporate architectural glazing materials into the architectural products subject to the standard (fabricators). The amendment would allow fabricators to use some noncomplying glazing that conforms to a voluntary standard through July 5, 1978. The amendment would not apply to manufacturers of glazing materials. The Commission believes the amendment is necessary because there will be insufficient supplies of complying glazing available to fabricators on the effective date and thus consumers may be unable to obtain architectural products incorporating glazing materials. In addition fabricators may suffer undue economic loss in disposing of noncomplying glazing they have in inventory.

DATES: The standard remains generally effective on July 6, 1977. The amendment is proposed to be effective the same day. Written comments must be received by May 27, 1977.

ADDRESS: Comments must be sent to: Office of the Secretary, Consumer Product Safety Commission, Room 300, 1111 18th Street NW., Washington, D.C. 20207. (telephone (202) 634-7700). All information the Commission has relevant to this proceeding, including any comments received in response to this proposal, may be seen, or copies may be obtained from, the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT:

Alan H. Schoem, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: (202-634-7770).

SUPPLEMENTARY INFORMATION: On January 6, 1977, the Consumer Product Safety Commission published in the FEDERAL REGISTER a Safety Standard for Architectural Glazing Materials (42 FR 1428 (16 CFR 1201)), under the provisions of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 et seq.). The standard is intended to reduce the unreasonable risks of injury associated with architectural glazing materials by ensuring that the glazing materials used in storm doors or combination doors, doors, bathtub doors and enclosures, shower doors and enclosures, certain glazed panels, and sliding glass doors (patio-type) either do not break when impacted with a specified energy, or break with characteristics that are less likely than other glazing materials to present an unreasonable risk of injury. The standard is effective July 6, 1977 except for glazing materials used in doors or other assemblies to retard the passage of fire where such doors or other assemblies are required by a federal, state, local or municipal fire ordinance, for which the standard is effective January 6, 1980. Section 14(a) of the CPSA (15 U.S.C. 2063) requires manufacturers of products subject to a consumer product safety standard to certify that the products comply with the standard.

The July 6, 1977 effective date has presented some confusion. Manufacturers of glazing materials are not required to begin producing glazing materials that conform to the standard until July 6, 1977 and, thus, they are not required to certify that glazing conforms to the standard until that date. As a result, persons who incorporate glazing materials into the architectural products subject to the standard (fabricators) may not have glazing material

in stock on July 6 that is certified to conform to the Commission's standard. This means that fabricators would generally be unable to incorporate glazing into the architectural products subject to the standard until glazing that is certified to conform to the standard reaches them through normal marketing channels. This could result in a shortage of architectural products subject to the standard at the retail level.

When the Commission issued the standard in January, it anticipated that by providing a six month lead time in the effective date of the standard until July 6, 1977, there would be sufficient time for manufacturers to produce glazing materials certified to conform to the Commission's standard by the effective date, to get the conforming glazing materials into the marketplace, and for fabricators to use up existing inventories of glazing materials, not certified to conform to the Commission's standard. However, manufacturers of glazing materials apparently are just now preparing to manufacture glazing materials certified to conform to the Commission's standard. Without a modification in the effective date of the standard, fabricators would likely be left with inventories of noncomplying glazing materials that were manufactured before the effective date of the standard but that could not be incorporated into architectural productions subject to the standard after the effective date. Thus, fabricators may suffer adverse economic effects in disposing of the noncomplying glazing. As indicated above, fabricators may also not have glazing that conforms to the Commission's standard and thus they would be unable to incorporate glazing into the architectural products subject to the standard. This in turn could lead to shortages of these architectural products at the consumer level.

The Commission, in issuing the standard, included a stockpiling provision, applicable between the date of issuance of the standard and its effective date, that prohibtis persons from incorporating glazing materials which do not comply with the standard into the products subject to the standard at more than a specified rate. (16 CFR 1201.6) The Commission believes it would be inequitable to now forbid such persons from incorporating legally maintained inventories of glazing materials into the architectural products subject to the standard so long as possible adverse effects on health and safety are minimized.

The Commission recognizes that, with few exceptions, glazing materials that conform to ANSI Z97.1–1972 or 1975, "American National Standard, Safety Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," meet some minimal level of safety and are, therefore, generally safer than ordinary annealed glass in the same sizes. The Commission, therefore, proposes to modify the effective date of the standard as it applies to fabricators in order to avoid the situation where on July 6, 1977 fabricators would be unable to incorporate glazing materials into the architectural products subject to the standard because no glazing certified to conform to the standard had yet reached them, and to avoid significant adverse economic effects resulting from an inability to use inventories of glazing materials that are consistent with the stockpiling provisions in section 1201.6 of the standard. However, the Commission believes it is also necessary to insure that after July 6, 1977, regular annealed glass is not used in architectural products subject to the standard since annealed glass is associated with many of the glazing injuries known to the Commission.

Accordingly, the Commission proposes to amend the effective date of the standard to allow persons who assemble or fabricate an architectural product subject to the standard that incorporates glazing materials (or who incorporate glazing material into an architectural product subject to the standard) to use glazing materials that conform to ANSI Z97.1–1972 or 1975 through July 5, 1978. However, such glazing materials must be permanently labeled or certified to indicate that they conform to ANSI Z97.1–1972 or 1975 and the glazing materials must have been manufactured prior to July 6, 1977.

The proposed change in the effective date does not affect persons who manufacture glazing materials (including persons who laminate, or temper or otherwise process materials to produce glazing) for use in the architectural products subject to the standard. They must, effective July 6, 1977, manufacture such glazing materials to conform to the Commission's standard and such glazing must be certified in accordance with section 14(a) of the CPSA to conform to the Commission's standard. In regard to this certification, manufacturers of the glazing materials must develop and use their own reasonable testing program to certify that glazing materials conform to the Commission's standard until the Commission prescribes, by rule, under section 14(b) of the CPSA, the testing program that must be used by all manufacturers. It is now anticipated that this rule wil be published in the FEDERAL REGISTER for public comment in mid-June 1977 and published in the FEDERAL REGISTER in final form by mid-December 1977.

As discussed previously in this document, the Commission included in the standard a stockpiling provision applicable to fabricators of glazing materials. Since, beginning July 6, 1977, manufacturers of glazing materials will be manufacturing glazing materials that conform to the Commission's standard, and because there is only a short time period remaining within which manufacturers could produce nonconforming glazing materials, the Commission believes that no further stockpiling provisions are necessary.

This proposed amendment is issued under the authority of section 9(e) of the Consumer Product Safety Act, 15 U.S.C. 2058(e) and 5 U.S.C. 553 (the Administrative Procedure Act). The Commission is providing only 15 days for comment on the proposed amendment to the effective date in order to issue it as expeditiously as possible.

After consideration of the effect of the current effective date of the Standard for Architectural Glazing Materials, the Commission concludes that the standard should be amended as proposed below. Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), Pub. L. 92–573, 86 Stat. 1215; U.S.C. 2058(e)), the Commission proposes to amend the standard for architectural glazing materials by adding a new § 1201.2(d) and by revising § 1201.7 to read as follows:

§ 1201.2 Definitions.

* * * * *

(d) Test methods and recommended practices published by the American National Standards Institute (ANSI) and referred to in this part 1201, are hereby incorporated by reference into this part 1201.[2]

* * * * *

§ 1201.7 Effective date.

The effective date of this Part 1201 shall be July 6, 1977 except:

(a) For glazing materials used in doors or other assemblies subject to this Part 1201 and intended to retard the passage of fire, when such doors or other assemblies are required by a federal, state, local or municipal fire ordinance, the effective date shall be January 6, 1980.

(b) Architectural glazing materials manufactured before July 6, 1977 may be incorporated into architectural products listed in § 1201.1(a) through July 5, 1978, if

(1) The architectural glazing material conforms to ANSI Z97.1–1972 or 1975, and

(2) The architectural glazing material is permanently labeled to indicate it conforms to ANSI Z97.1–1972 or 1975 or is accompanied by a certificate certifying conformance to ANSI Z97.1–1972 or 1975.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register, May 9, 1977, and a copy of the incorporated material is on file in the Federal Register Library.

Interested persons are invited to submit, on or before May 27, 1977, written comments regarding the proposed amendment to the Standard for Architectural Glazing Materials.

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a supporting memorandum or brief. Any comments that are received and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 3rd

[2] ANSI Standards are approved by, published by, and available from the American National Standards Institutes, Inc., 1430 Broadway, New York, New York 10018.

floor, 1111 18th Street, NW., Washington, D.C. 20207.

Dated: May 5, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-13685 Filed 5-11-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230 and 240]

[Release Nos. 33-5824, 34-13479]

RAILROAD INDUSTRY DISCLOSURE GUIDLELINES, DEFERRED MAINTENANCE, AND BETTERMENT ACCOUNTING

Formulation of Guidelines

AGENCY: Securities and Exchange Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Because of recent legislative and administrative action affecting the railroad industry, the Commission announces that it is considering the formulation of rules and guides and requests public comment with respect to (1) the form and content of railroad industry disclosure guidelines; (2) a uniform definition of deferred maintenance and uniform standards for its quantification and disclosure; and (3) the appropriateness of betterment accounting in documents filed with the Commission and distributed to stockholders. The announcement is being made at this time so that rules and guidelines can be developed at the earliest practicable date.

DATES: Comments must be received on or before: June 17, 1977.

ADDRESS: Comments should refer to File No. S7-692 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

(A) With respect to railroad industry disclosure guidelines: Richard K. Wulff, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1750).

(B) With respect to deferred maintenance and betterment accounting: Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1182).

SUPPLEMENTARY INFORMATION: Pursuant to its expanded authority under section 13(b) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)), as amended by the Railroad Revitalization and Regulatory Reform Act of 1976 ("Railroad Act") (45 U.S.C. 801 (February 5, 1976)), the Commission announced in other action today the adoption of amendments to certain rules and forms which require railroad companies for the first time to file annual reports and quarterly reports with the Commission on Forms 10-K (17 CFR 249.310) and 10-Q (17 CFR 249.-308a) respectively.[1] In addition, pursuant to the Railroad Act, certain securities of railroad companies are no longer exempt from the registration requirements of the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.). In connection with the initial preparation by railroads of disclosure documents under the Securities Act and the Exchange Act, the Commission requests public comment on the above matters.

DEVELOPMENT OF DISCLOSURE GUIDELINES FOR CLASS I RAILROADS

The Commission has directed the staff of its Division of Corporation Finance to develop disclosure guidelines for selected industries. The Commission's decision to formulate guides is prompted by a recent recommendation of the Advisory Committee on Corporate Disclosure and is designed to encourage uniform textual and financial statement disclosure of material items that are unique to particular industries. The proposed guidelines generally have the same effect as those already published for bank holding companies, real estate limited partnerships, and oil and gas drilling programs in their preparation of disclosure documents under both the Securities Act and the Exchange Act. The approach to be adopted in the formulation of the new guides would also be similar to that used by the Commission and its staff in the promulgation of the existing guidelines.

The Advisory Committee has also recommended that as an aid to the development of meaningful guidelines users and preparers of information for the selected industries be afforded the opportunity to participate in the formulation of the guides by providing comments and suggestions. A further recommendation of the Committee was to test the efficacy of this procedure by selecting a few industries, at least initially, for guidelines development. The Commission has chosen Class I Railroads for guidelines formulation, in part, because of the impact of the Railroads Act.

As is the case with existing guidelines for preparing Securities Act and Exchange Act registration statements and reports, it is not intended that any railroad guides would constitute Commission rules but that they would exhibit policies and practices utilized by the Division of Corporation Finance in administering the the disclosure requirements of the federal securities laws.

In furtherance of the Advisory Committee's recommendation, the Commission hereby requests the comments and suggestions of all interested person familiar with the railroad industry to assist in the development of meaningful guidelines to be followed in the preparation of Securities Act and Exchange Act disclosure documents. Prospective commentators are requested to isolate specific areas of disclosure which might be subject to uniform presentation by railroads. Among other areas, commentators should consider guidelines with respect to: (1) Line of business reporting, including a breakdown of the contribution of freight and passenger service, (2) the status of physical plant and equipment, including the average economical service lives, average ages, bad order ratios and classification by age range of locomotives, freight cars and other equipment, and capital and maintenance spending practices with respect to plant and equipment, (3) the average return on invested capital, (4) comoetitive conditions and position, and (5) disclosure of deferred maintenance, as discussed in greater detail later. It is also requested that difficult disclosure problems be considered from both an accounting and non-accounting vantage. The desired information will pinpoint the scope as well as the substance of the guidelines and commentary should be designed with this goal in view.

DEFERRED MAINTENANCE

The Commission is also requesting comments and suggestions of all interested persons familiar with the railroad industry on the development of a uniform definition of deferred maintenance, uniform methodology for its quantification and the appropriate standards of disclosure for such amount under the Federal securities laws.

The Commission has observed that deferred maintenance is a phenomenon facing a substantial portion of the railroad industry. A study prepared for the Federal Railroad Administration by Thomas K. Dyer, Inc., consulting engineers, indicates that deferred maintenance for all Class I railroads is in excess of $7 billion. In that study deferred maintenance was defined as "the quantity of materials, amount of labor, and incidentals for the work required to bring each of the components of the railroad's facilities to a level where, on the average, one half of its useful life remains."[2] The Commission understands that this definition and the Dyer methodology for computing deferred maintenance will be an important element in the Secretary of Transportation's recommendation to Congress for governmental financing of the railroad industry's facilities rehabilitation and improvements needs.[3]

The Commission requests comments on the appropriateness of this definition, the methodologly used in the Dyer study and whether deferred maintenance amounts determined using the Dyer def-

[1] See Securities Exchange Act Release No. 34-13477 (April 28, 1977) (See proposed rules and regulations in this issue at page 24071.)

[2] Maintenance of Way Study, United States Class I Railroads, October 1974, Association of American Railroads, Thomas K. Dyer, Inc., Lexington, Mass.

[3] A copy of the Dyer Report is included in Commission file S7-692 and is available for inspection at the Commission's Public Reference Section, 1100 L St. N.W., Washington, D.C. 20549.

inition and methodology would be appropriate for disclosure of an individual railroad's amount of deferred maintenance. If it is the commentators' view that the Dyer approach is not appropriate, the Commission requests suggestions for an approach that is believed to be appropriate.

It is noteworthy that a railroad industry sponsored study commonly referred to as the ASTRO Report[4] acknowledged that the industry had an "enormous backlog" of rail and tie renewals due to low replacement levels in the 1950's and 1960's and that these levels implied replacement cycles which are much greater than the average useful lives of new rail and ties. In this regard, the ASTRO Report stated that new rail can reasonably be expected to last an average of 60 years, including subsequent reuse in secondary lines and the average life for new ties about 35 years. The analysis in the ASTRO Report indicates the importance of knowing not only the extent to which a railroad's track replacement deviates from the normal (50 percent life remaining) condition, but also whether past replacement patterns may necessitate material increases in replacements merely to maintain current track conditions. The Commission also requests comments concerning disclosures by railroads of their historical track replacement patterns, the rates at which their track materials are currently being used up[5] and future requirements and costs associated with maintaining the track in the present condition and eliminating deferred maintenance. Consideration should also be given to providing the foregoing information with respect to major track components (e.g., main line, branch line, year and traffic density subclassifications).[6]

Regardless of the asserted present lack of consensus on the definition and computation of deferred maintenance, the Commission believes that the existence of significant amounts of deferred maintenance is material information to shareholders. Pending the formulation of industry wide guidelines, material amounts of deferred maintenance should be disclosed to stockholders in whatever fashion the management of individual railroads believes best portrays their situation with appropriate disclosure of the definition of deferred maintenance that has been employed and a brief description of the methodology.

[4] The American Railroad Industry: A Prospectus, America's Sound Transportation Review Organization (June, 1970).

[5] In this connection consideration should be given to the factors affecting track life such as accumulated gross tonnage, average carload weight, whether ties are treated and whether rail is jointed or welded.

[6] A General Accounting Office Study for A Subcommittee of the Senate Government Operations Committee pointed out that the Dyer method does not indicate the segments of the track system on which maintenance has been deferred. Information on Estimated Costs to Rehabilitate the Nation's Railroad Track and a Summary of Federal Assistance to the Industry, Nov., 1975, at 9.

BETTERMENT ACCOUNTING

Background. The Commission is also inviting comment as to whether betterment accounting should continue to be an acceptable accounting principle for railroads for reporting their financial position and results of operations in filings with the Commission and in reports to shareholders.

Under betterment accounting the initial cost of track structures, usually ties, rails, and ballast, is recorded as a nondepreciable asset. Subsequent replacements are charged to operating expense except to the extent they constitute a betterment. For example, if 110 lb. rail is replaced with 132 lb. rail, the cost attributable to the 22 lb. betterment is recorded as a non-depreciable asset and the cost attributable to the 110 lb. replacement is recorded as an operating expense.

All railroads in the United States use betterment accounting for purposes of reporting their financial results to the Interstate Commerce Commission. All but three railroads use betterment accounting in filings with the Commission and for shareholder reporting purposes. The three railroads that use depreciation accounting provide a reconciliation of their financial results under depreciation accounting to that that would have been reported had betterment accounting been used.

Views of Those Who Support Betterment Accounting.—Challenges to betterment accounting are not new. In 1957 a committee of the American Institute of Accountants (now the American Institute of Certified Public Accountants) conducted a study of railroad accounting practices and stated the following regarding betterment accounting (frequently called "replacement" accounting):

> The Committee believes that 'replacement' accounting does not accord with practices generally followed by other industries. As to track components, however, the committee, in consideration of the long history of the use of replacement accounting by railroads with respect thereto, the unique nature of this category of railroad property, its relatively stable physical quantity, and mature economic status of the industry, has concluded, with one member dissenting, that no substantial useful purpose would be served by a change to depreciation accounting techniques in the absence of evidence indicating that depreciation-maintenance procedures would provide more appropriate charges to income for the use of such property.[7]

In a letter to the ICC, the same committee stated:

> We feel that a practice consistently followed for more than 50 years and which affects a significant segment of the railroads' properties and operations should not be changed unless and until it has been found to be clearly erroneous by a convincing preponderance of evidence. We believe that no sufficient reasons have been presented to justify a change in this accounting method with its resultant tremendous upheaval in the fields of federal, state and local taxes, its substantially increased costs of accounting and no proposals for the protection of both investors and shippers in the transition. The present accounting method has withstood the test of several decades of use without demonstrated proof of harm to any parties. It is now impractical, if not impossible in view of the economic and taxation changes which have taken place during that time to reconstruct the accounts in such a way that all parties will be treated equitable.[8]

The proponents of betterment accounting frequently assert that betterment accounting is justified because the railroad industry is mature and has had a relatively stable physical quantity of track structures. Under these conditions, as long as the railroads have a continuing program that replaces worn-out track facilities on a pro-rata basis each period, the financial results reported using betterment accounting would not be significantly different from the results using depreciation accounting.[9]

Proponents also point out that during periods of rising prices betterment accounting results in greater charges to operating expense than does depreciation accounting, thereby providing a more conservatively stated statement of income (analogous to the use of LIFO).

Views of Those Who Oppose Betterment Accounting. Those who oppose betterment accounting argue that, under the present environment in which railroads operate, betterment accounting cannot in many cases report economic realities. Consummated and proposed abandonments of track structure point out that a relatively stable physical quantity of track structure is no longer present or desirable, and the large amounts of deferred maintenance being reported, together with observed deterioration of track structures in many parts of the country, indicate that a continuing level of normal maintenance has not occurred.[10]

Opponents of betterment accounting argue that the railroad industry is the only industry employing betterment accounting (and then only for track structure) and it is not well understood by financial statement readers. Also, betterment accounting does not directly measure the cost of consuming physical assets (i.e. track structure) and thus misstates the cost of doing business. A charge for capital consumption will only concur if replacements are made, which, even if made, may not correspond to the economic consumption of the track structure. And it is argued that under betterment accounting the utilization of property that is never replaced is not re-

[7] Report of American Institute of Accountants Committee on Relations with the Interstate Commerce Commission, March 29, 1957.

[8] Letter from American Institute of Certified Public Accountants Committee on Relations with the Interstate Commerce Commission to Mr. Owen Clarke, Chairman, Interstate Commerce Commission, December 31, 1957.

[9] Arthur Andersen & Co., "Accounting and Reporting Problems of the Accounting Profession," Fifth Edition—August 1965, page 147.

[10] Id. at 147-48.

cognized as a cost of doing business until it is retired,[11] which, as a result of the rate making process, may not allow for the recovery of the cost of the track structure.

Some who oppose betterment accounting believe it may create an incentive towards the deferral of necessary maintenance in order to achieve higher earnings. In its April 30, 1976 petition of the ICC to institute a rulemaking proceeding on betterment accounting, the Department of Transportation wrote:

> The issue of betterment versus depreciation accounting is important to those who are interested in the integrity of railroad financial statements and accounting practices and to those who are interested in the influence that accounting policies have on the manner in which railroad managements make investment policy decisions for railroad track improvements and maintenance. Although no conclusive evidence exists that points to betterment accounting as the sole, or even the primary, culprit in the long history of neglect that has led to the current deteriorated state of much of the nation's rail system, DOT believes the Commission policies should not create any incentive for railroad management to allow deterioration of fixed assets.
>
> While railroad management may always, of course, choose to defer maintenance, there may, in a betterment accounting system, be an incentive for them to do so. Under betterment accounting, costs of maintenance are immediately subtracted from total revenues, thus suggesting that the firm is less profitable than it might otherwise appear. The end effect is that balance sheet asset and equity values may be presented inaccurately. To the degree that maintenance is deferred to inflate net income, such deferral contributes to the exhaustion of track facilities and aggravates already critical deferred maintenance problems. DOT recognizes, of course, that other factors, particularly the simple non-availability of cash, may loom just as large in the decision to postpone investment in track facilities.

The Commission invites commentators to develop or refute the above arguments and to present other relevant arguments for or against the retention of betterment accounting in filings with the Commission and for reporting to shareholders. The Commission would be particularly interested in receiving evidence that demonstrates whether, in today's environment, the results under betterment and depreciation accounting are similar or not, and if not, the magnitude of the difference.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77-13943 Filed 5-11-77;8:45 am]

[11] Id. at 149.

[17 CFR Part 240]

[Release No. 34-13478]

CERTAIN RAILROAD ISSUERS

Exemption From Financial Statement Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In view of recent legislature and administrative action affecting the railroad industry, the Commission announces it is considering the formulation of rules and requests public comment regarding the appropriateness of providing permanent exemption for lesser and switching and terminal company railroads from the financial reporting requirements of Commission forms. The announcement is being made at this time so that exemptive rules, if appropriate, can be developed at the earliest practicable date.

DATES: Comments must be received on or before: June 17, 1977.

ADDRESS: Comments should refer to File No. 37-653 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Paul A. Belvin, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 202-755-1750.

SUPPLEMENTARY INFORMATION: In related action today[1] the Securities and Exchange Commission announced the adoption of amendments to Rules 13a-13 (17 CFR 240.13a-13), 14a-3 (240.-15d-13), and the revocation of Rule 13b-1 (17 CFR 240.13b-1) and annual report Form 12-K (17 CFR 249.312) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975). The effect of these amendments is to require that those registrants who currently file copies of their reports submitted to the Interstate Commerce Commission, Federal Power Commission, Federal Communications Commission, and Civil Aeronautic Board in lieu of the Commission's regular annual and quarterly report forms instead file reports in compliance with such forms and the regulations governing such reports.

It was suggested during the proceeding by a number of railroad related commentators that lessor railroads and switching and terminal companies should be the subject of a broad exemption from the financial statements requirements of Forms 10-K and 10-Q. Lessor railroads are substantially or wholly owned subsidiaries of operating railroads whose facilities or trackbeds are operated under lease pursuant to which the parent railroad is lessee. The income of the lessor subsidiary is determined pursuant to the lease arrangement based on the interest and a fixed dividend on the outstanding securities of the lessor. Switching and terminal companies are owned by operating railroads which share the expenses of operation on a user basis.

The Commission specifically invites additional comment from interested parties regarding the appropriateness of providing permanent exemption from the financial statements requirements of Forms 10-K and 10-Q for these and other railroad issuers and the proper form and content of any such exemptions. Comment is also invited as to the precise manner by which any such issuers might be identified in any exemptive provisions, in order that the scope of the exemption is not unduly broad. The Commission also invites comments as to why railroad entities of the type described above should be the subject of an exemption, while other entities, such as financing subsidiaries of non-railroad issuers, traditionally have not been the subject of a categorical exemption from the reporting requirements.

The Commission anticipates that final action with respect to this matter will be announced no later than October 1, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77-13633 Filed 5-11-77;8:45 am]

[1] Securities Exchange Act Release No. 34-13477 (April 28, 1977).

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 721-8; OPP-300010B]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice reproposes that certain inert ingredients in pesticide formulations be exempted from the requirement of a tolerance. This proposal was requested by various firms. This proposed amendment will allow the use of additional inert ingredients in pesticides

applied to raw agricultural commodites and add another pesticide to the list of those generally recognized as safe for use.

DATE: Comments must be received on or before June 13, 1977.

ADDRESSES: SEND COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Toxicology Branch, Registration Division (WH-567), Office of Pesticide Programs, EPA (202/426-2680).

SUPPLEMENTARY INFORMATION: On October 14, 1976, notice was given (41 FR 45029) that at the request of several interested persons, the Administrator, EPA, was proposing, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, to amend 40 CFR 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

One comment was received in response to this notice from the EPA's Health Effects Division, Office of Health and Ecological Effects, Office of Research and Development. This comment questioned the appropriateness of the term "inert" and pointed out that some of the proposed pesticide chemicals were "far from being toxicologically inert," even though they may be inert with regard to their direct pesticidal activity. It was also recommended that the residues of these ingredients on raw agricultural commodities and processed food be assessed before they are assumed not to be a public health hazard.

In response, it is pointed out that by "inert," the Agency means that the ingredient enhances the activity of the pesticide without having any direct pesticidal activity of its own. Further implications of the term inert are that the ingredient is efficacious as part of the pesticide formulation and is safe with regard to human exposure when used in accordance with good agricultural practice. The term is not intended to imply toxicological inertness or lack of toxicity; the ingredient may or may not be chemically or toxicologically active.

All tolerance exemption requests to the Agency must be supported by scientific data or previous clearances before any exemption is granted. Any inert ingredient is assessed beforehand with special emphasis on its toxicity in relation to its expected residues from the proposed use.

In addition, all the inerts for which exemptions were requested in this proposal have never been implicated as tumor-producing agents, have been previously cleared for food use by the EPA or FDA, or not expected to produce residues other than innocuous degradation products when used in accordance with good agricultural practice.

It has also been determined that because the ingredient sodium hypochlorite has only one use with respect to food, i.e., as a washing agent for fresh fruits and vegetables, it should be transferred from 40 CFR 180.1001(c) to 40 CFR 180.2, *Pesticide chemicals considered safe*.

Because the previous proposal apparently did not provide sufficient information to permit adequate public review and comment, the inert (or occasionally active) ingredients concerned, the firms requesting exemptions, and the bases for their approval are provided at this time and the comment period is being extended accordingly.

Inert ingredient	Firm	Bases for approval
Acetic anhydride	Chevron Chemical Co., Inc., 940 Hensley St., Richmond, Calif. 94804.	Previously cleared under 180.1001(c). No reasonable expectation of residues in human food.
alpha-Alkyl (C_8-C_{10})-omega-hydroxy-poly(oxypropylene) [1] block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles. Average molecular weight approximately 635.	Jefferson Chemical Co., Inc., P.O. Box 4128, Austin, Tex. 78765.	Close structural similarity to a previously cleared inert ingredient.
Potassium sulfate	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898.	Generally recognized as safe (GRAS) by the Food and Drug Administration pursuant to 21 CFR 121.101(d)(8) as a direct food additive.
Sodium hypochlorite	FMC Corp., Middleport, N.Y. 14105.	Previously cleared under 21 CFR 121.1091 for use in lye-washing of fruits and vegetables. Widely used as a disinfectant in municipal potable water supplies. No reasonable expectation of residues in human food.
Sodium mono-, di-, and tributyl naphthalene sulfonates.	Petrochemicals Co., Inc., 2001 N. Grove St., Fort Worth, Tex. 78765.	Previously cleared under 21 CFR 121.1198 for meat curing and in washing peeling of fruits and vegetables.
Valeric acid	Industrial Bio-Test Labs., Inc., 1810 Frontage Rd., Northbrook, Ill. 60062.	Previously cleared under 21 CFR 121.1164 as synthetic flavoring and adjuvant.

[1] In 41 FR 45029, this chemical was originally written as "alpha-Alkyl (C_8-C_{10}) * * * and is now corrected.

Based on the above material, available information on the chemistry of these substances, and a review of their uses, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to humans. The proposed amendments to 40 CFR 180.2 and 180.1001 will protect the public health.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 13, 1977, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject matter and the OPP document control number "OPP-300010B". All written comments filed in response to this notice and the October 14, 1976, proposal will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: April 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

With the exception of editorial changes to correct typographical errors, it is concluded that the original proposal be reproposed as follows:

(1) Part 180, Subpart A, § 180.2(a) is amended by adding the pesticide chemical sodium hypochlorite to read as follows.

(2) Part 180, Subpart D, § 180.1001 is amended by: (1) deleting the entry "alpha-alkyl (C6-C10)-omega-hydroxy-poly (oxypropylene) block polymer with polyoxyethylene; polyoxypropylene content averages 3 moles; polyoxyethylene content averages 7 moles; average molecular weight approximately 625" from paragraph (c); (2) deleting the entry "Sodium mono-, di-, and tributyl naphthalene sulfonates" from paragraph (d); (3) deleting the entries "Aluminum stearate", "Wintergreen oil", "Ethanol", and "Benzoic acid" from paragraph (d); (4) alphabetically inserting new items in paragraphs (c), (d), and (e); and (5) by deleting sodium hypochlorite from paragraph (c) to read as follows:

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellant in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium polysulfide, sodium carbonate, sodium chloride, sodium hypochlorite, sodium polysulfide, and sulfur, and, when used postharvest as fungicides, citric acid, fumaric acid, oil of lemon, oil of orange, sodium benzoate, and sodium propionate are not for the

purposes of section 408(a) of the act generally recognized as safe for use.

* * * * *

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * * * *		
Alpha-alkyl (C6-C14)-omega - hydroxypoly - (oxypropylene) b'ock copolymer with poly-oxy-ethylene; polyoxy-propylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight approximately 635.		Surfactants, related adjuvants of surfactants.
* * * * *		
Potassium sulfate		Solid diluent.
* * * * *		
Sodium mono-, di-, and tributyl naphthalene sulfonates.		Surfactants, related adjuvants of surfactants.
* * * * *		

(d) * * *

* * * * *		
Valeric acid, normal	Not more than 2 pct in pesticide formulations.	Stenching agent or odorant.
* * * * *		

(e) * * *

* * * * *		
Acetic anhydride		Solvent, cosolvent, stabilizer.
* * * * *		
Alpha-alkyl (C6-C14)-omega-hydroxypoly (oxypropylene) block copolymer with poly-oxyethylene; polyoxy-propylene content is 1-3 moles; polyoxy-ethylene content is 7-9 moles; average molecu-lar weight approxi-mately 635.		Surfactants, related adjuvants of surfactants.
* * * * *		
Sodium mono-, di-, and tributyl naphthalene sulfonates.		Solvent, cosolvent stabilizer.
* * * * *		

[FR Doc.77-13228 Filed 5-11-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-87]

TEXAS GAS TRANSMISSION CORP.

Supplemental Emergency Order

By order issued April 6, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 92-5 (91 Stat. 4 (1977)), Texas Gas Transmission Corporation (Texas Gas), as agent for certain of its customers,[1] was authorized to purchase approximately 2,000 Mcfd of natural gas from Par Oil Company (Par).

By telegram dated May 5, 1977, Texas Gas requested that the order be amended to permit Texas Gas to purchase up to 5,000 Mcfd. Texas Gas states that, on May 3, 1977, it amended the contract with Par to provide for the purchase of these additional volumes.

The April 6, 1977, order in this proceeding is hereby amended to permit Texas Gas, as agent to purchase up to 5,000 Mcfd of natural gas from Par and transport and deliver that gas to the customers for which it is an agent. To the extent not inconsistent with the provisions of this order, the provisions of the April 6, 1977, order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Par. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 6, 1977.

[FR Doc.77-13538 Filed 5-11-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETING—MARKETING ORDER NO. 905—7 CFR PART 905—REGULATING THE HANDLING OF ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Postponement of Public Meeting

The meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905) originally scheduled for May 17, 1977 (42 FR 21124), is postponed until May 31, 1977. The meeting will be held in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time. This notice is issued pursuant to the provisions of section 10 (a) (2) of the Federal Advisory Committee Act (86 Stat. 770). Marketing Order No. 905 regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). At its meeting on May 5, 1977, the committee recommended regulations it deemed appropriate to the prevailing demand situation and requested that the meeting scheduled for May 17 be delayed until May 31, 1977.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: May 6, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-13518 Filed 5-11-77;8:45 am]

Cooperative State Research Service

COMMITTEE OF NINE

Notice of Meeting; Amendment

The location of the June 2-3, 1977 meeting of the Committee of Nine, notice of which was published in the FEDERAL REGISTER on April 27, 1977 (42 FR 21500), has been changed from Room 104-A to Room 509-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Dated: May 9, 1977.

R. J. ALDRICH,
Administrator.

[FR Doc.77-13610 Filed 5-11-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30552]

AIR MANILA, INC.

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on June 14, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., May 5, 1977.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.77-13611 Filed 5-11-77;8:45 am]

[Order 77-5-39; Docket 30610]

BRANIFF AIRWAYS, INC.

Application for Amendment of Public Convenience Certificate; Order To Show Cause

Application of Braniff Airways, Inc. for the amendment of its certificate of public convenience and necessity for Route 153 so as to delete Talara and Iquitos, Peru.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of May, 1977.

On March 14, 1977, Braniff Airways, Inc. filed an application in Docket 30610 requesting amendment of its certificate for Route 153 so as to delete Talara and Iquitos, Peru, therefrom. Contemporaneously, Braniff filed a petition requesting that the deletion be accomplished by show-cause procedures and a motion that the Board consolidate its application in Docket 30610 with its applications in Dockets 26966 and 29074.

In support of its request, Braniff alleges, inter alia, that: as a result of the United States-Caribbean-South America Route Investigation, the Board consolidated Braniff's Route 146 (formerly Panagra's) with Route 153, leaving an amended certificate for Route 153 with Talara and Iquitos as intermediate points; service to Talara had been suspended and service had never been inaugurated at Iquitos at the time of the Board's investigation; Braniff has not provided service to either point subsequent to the issuance of the amended certificate for Route 153; both points are adequately served by Peruvian airlines; and neither Talara nor Iquitos generates sufficient international traffic to justify additional service by Braniff.

[1] These customers are local distribution companies and interstate pipelines as defined in §§ 2(1), (5) of the Act (91 Stat. 4).

In support of its motion to consolidate, Braniff states that both Dockets 26966 and 29074 [1] pertain to Braniff applications to amend its certificate for Route 153; that the Board has consolidated those dockets and issued an order to show cause why Braniff's certificate should not be made final (Order 77–2–123); and that, since Braniff's application herein pertains to Route 153, consolidation would not unduly delay the proceedings which have already been initiated and would be conducive to the proper dispatch of the Board's business.

No answers to the application and motion have been received.

Upon consideration of the pleadings and all the relevant facts, we have decided to issue an order to show cause why the Board should not grant the requested deletions and to deny Braniff's motion to consolidate. We believe the issues raised by the deletions proposed herein are disparate enough to warrant individual treatment.

We tentatively find and conclude that the public convenience and necessity require the amendment of Braniff's certificate for Route 153 so as to delete the points Talara and Iquitos, Peru.[2] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

Both Talara and Iquitos were certificated to Braniff's predecessor, Panagra. These points were part of Panagra's certificate for Route 146 at the time of merger negotiations between Panagra and Braniff and the conduct of the United States-South America Route Investigation (Docket 12895, et al.) in the mid-60's. In 1964 Panagra obtained authority to suspend service to Talara during the pendency of the latter case. Service to Iquitos had not been inaugurated because approval from the Peruvian government for international service to Iquitos had not been obtained. In 1966, the Board approved the acquistion of Panagra by Braniff and transferred the certificate for Route 146 to Braniff (Panagra Acquisition Case, 45 CAB 495 (1966)) and the U.S.-Peruvian bilateral agreement with Peru was amended to add Iquitos as a point for international traffic in Peru for U.S. carriers. At the conclusion of the United States-South American Investigation (Order 68–11–122), the Board consolidated Panagra's former Route 146 with Braniff's Route 153, leaving an amended certificate for Route 153, with Talara and Iquitos as intermediate points on each segment of the route (49 CAB 500 (1968)). Braniff has not provided service to either location since the issuance of that amended certificate.[3] However, both Talara and Iquitos receive daily jet service from two Peruvian carriers to and from Lima, where they can connect to Braniff's international services.[4] Despite the frequency of service to Talara and Iquitos by the Peruvian carriers, the Board's international O&D survey statistics reveal that the traffic generated is truly local in nature. Talara generated less than one daily passenger to and from all international points covered by the O&D survey for 1975, while Iquitos provided less than two daily international passengers in each direction. The traffic generated by the points cannot be served by an intercontinental carrier such as Braniff except at a severe loss.

Thus, institution of service to Talara and Iquitos by Braniff would involve an unnecessary increase in operating costs, would result in loss of through traffic (to and from Lima) because of additional stops and flight time required, and would otherwise not be economically sound. The public interest will best be served by leaving these points to the Peruvian carriers who specialize in local service transportation. In these circumstances, we do not believe that any useful purpose would be served by the retention of Braniff's unused certificate authority at Talara and Iquitos.[5] Finally, the absence of opposition to Braniff's application lends support to our decision that the show-cause procedure is appropriate.[6]

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Braniff Airways, Inc., for Route 153 so as to delete Talara and Iquitos, Peru, therefrom;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 30 days after the date of this order, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; and answers to such objections may be filed 10 days thereafter; [7]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. The motion of Braniff Airways, Inc., for consolidation of Docket 30610 with Dockets 26966 and 29074, be and it hereby is denied; and

6. A copy of this order shall be served upon all persons listed in ordering paragraph 12 of Order 77–2–123, February 24, 1977.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–13613 Filed 5–11–77;8:45 am]

[1] Docket 26966 requests that another point be substituted for Lima in condition (7) of Route 153 and Docket 29074 requests the addition of Dallas/Fort Worth as a coterminal point on Route 153, segment 1.

[2] We also tentatively find that Braniff is fit, willing, and able properly to perform the air transportation authorized by the certificate proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations and requirements thereunder.

[3] Within 90 days after final decision in the investigation, Braniff should have instituted service at both points and is in apparent violation of its certificate. Our action herein does not render moot any violations of the Act and neither prejudices any enforcement action which may be taken for such violations nor lessens the severity of any such offense.

[4] AeroPeru provides a single nonstop flight between Talara and Lima four days per week, while Compania de Aviacion "Faucett", S.A. (Faucett) provides one-stop turnaround service between Talara and Lima on the three other days of the week. AeroPeru also provides 13 flights per week from Iquitos to Lima and 15 flights per week from Lima to Iquitos. Faucett has a total of 17 turnaround flights each week between Iquitos and Lima.

[5] The action we propose by this order is similar to that taken with respect to previous applications of Braniff and other international carriers to delete dormant operating authorizations. See, e.g., United States-South America Route Investigation, 49 CAB 500 (1968).

[6] Since grant of the proposed authority herein will not result in any change in the level of service at any U.S. point within the meaning of section 312.9(a)(1) of the Board's Regulations, our action will not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969.

[7] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket 30565]

DEUTSCHES REISEBURO GMBH (GERMANY)

Foreign Air Carrier Permit; Postponing Hearing and Scheduling Second Prehearing Conference

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled matter assigned to be held on May 26, 1977 (42 FR 22564, May 4, 1977), is postponed.

As a result of Board Order 77-5-8, adding parties to this proceeding, a second prehearing conference is scheduled to be held on May 16, 1977 at 9:30 a.m. (local time), in Room 1003, Hearing Room B, North Univeral Building, 1875 Connecticut Avenue NW., Washington, D.C. before the undersigned.

Dated at Washington, D.C., May 5, 1977.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.77-13612 Filed 5-11-77;8:45 am]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 5-77]

FOREIGN-TRADE ZONE NO. 3, SAN FRANCISCO

Application To Relocate Zone to Piers 19 and 23, Embarcadero, San Francisco

Notice is hereby given that the San Francisco Port Commission (the Commission), Grantee of Foreign-Trade Zone No. 3, San Francisco, California, has requested from the Foreign-Trade Zones Board (the Board) permission to relocate the zone from its present two sites to a consolidated site at Piers 19 and 23, Embarcadero, San Francisco. The application is dated May 4, 1977 and was formally filed May 10, 1977.

The present zone consists of a site at Berry Street with a warehouse/processing facility having 55,000 sq. ft. of floor space and a 61,000 sq. ft. warehouse at King Street. The sites are a block apart near Pier 46A about 1½ miles south of the Commission's offices in the Ferry Building.

The proposed consolidated facility would comprise Piers 19 and 23 on the Embarcadero at the foot of Filbert Street about one-half mile north of the Ferry Building in San Francisco. The two piers are connected at the inner end by a bulkhead and connecting wharves and provide over 225,000 square feet of covered space. Operator of the zone under contract with the Commission will be Foreign Trade Services, Inc.

The new facility is requested to provide improved zone services for the area's business community. Not affected by this proposal is the special purpose subzone sponsored by the Commission located at 355 Treat Street.

An examiners committee consisting of the following has been named to review the proposal and report to the Board: John J. Da Ponte, Jr. (Chairman), Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Washington, D.C. 20230; Dan Lane, Supervisor of Merchandise Control, U.S. Customs District, San Francisco, 555 Battery Street, San Francisco, California 94216; and Colonel Henry A. Flertzheim, Jr., District Engineer, U.S. Army Engineer District San Francisco, 211 Main Street, San Francisco, California 94105.

Copies of the Commission's application are available for inspection at:

District Director, U.S. Customs Service, San Francisco District, 555 Battery Street (Room 319), San Francisco, California 94216.

Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce (Room 6886B), Washington, D.C. 20230.

Comments concerning the proposal are invited in writing from interested parties (original and six copies). They should be addressed to the Board's Executive Secretary at the above address and be postmarked on or before May 27, 1977.

Dated: May 10, 1977.

JOHN J. DA PONTE, Jr.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.77-13777 Filed 5-11-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Gulf Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to Alabama, west coast of Florida, Louisiana, Mississippi, and Texas. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing and conduct public hearings.

The meeting will be held Monday, Tuesday and Wednesday, June 13, 14 and 15, 1977, in the Orleans Ballroom of the Bourbon Orleans-Ramada, Bourbon and Orleans Street, New Orleans, Louisiana. The meeting will convene at 1:30 p.m. on June 13, and adjourn at about noon June 15, 1977. The daily sessions will start at 8:30 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meetipg may be extended or shortened depending on progress on the agenda.

Proposed Agenda:

1. Management plans.

2. Personnel and administration categories.

3. Review of foreign fishing applications, if any.

4. Other fishery management business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about June 6, 1977:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by submitting them to Mr. Swingle at the above address. To receive due consideration and facilitate inclusion of those comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: May 6, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-13590 Filed 5-11-77;8:45 am]

SEA GRANT REVIEW PANEL

Partially Closed Meeting

The Sea Grant Review Panel will meet on June 1 and 2, 1977 from 9 a.m. to 4:30 p.m. each day in Page Building No. 1, Room 416, 2001 Wisconsin Avenue NW., Washington, D.C.

The Panel was established in December 1976 under Section 209 of the National Sea Grant Program Act, and advises the Secretary of Commerce with respect to:

a. Applications or proposals for, and performance under, grants and contracts awarded under Sections 205 and 206 of the Act;

b. The Sea Grant Fellowship Program, established under Section 208 of the Act;

c. The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia (which are provided for in Section 207 of the Act) and the operation of Sea Grant programs;

d. The formulation and application of the planning guidelines and priorities established by the Secretary under Section 204(a) of the Act and applied by the Director in accordance with Section 204 (c)(1); and

e. Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

June 1, 1977: (9 a.m. to 4:30 p.m.)

9:00 a.m. Preliminary remarks and discussion of agenda.

9:15 a.m. A. Institutional and coherent area program discussions.
University of Rhode Island.
Massachusetts Institute of Technology.
University of Miami.
University of South Carolina.
Oregon State University.
Texas A&M University.
Louisiana State University.
University of Michigan.
University of Wisconsin.
Woods Hole Oceanographic Institution.
University of California.
University of Delaware.
University of Hawaii.
University of Southern California.

B. Sea Grant College candidates discussion. The following universities are eligible on the basis of time to be considered for designation as Sea Grant Colleges:
University of Southern California.
Louisiana State University.

4:30 p.m. Recess.

June 2, 1977: (9 a.m. to 4:30 p.m.)

9:00 a.m. C. Review of Sea Grant legislation items.

D. Review of MIT-Holloman report.

E. Program development strategy.

F. Discussion with Sea Grant directors.

4:30 p.m. Adjourn.

All agenda items will be open to public attendance, except for a five-minute portion at the end of the discussion of each institution under Agenda Items A and B, in accordance with 5 U.S.C. 552b(c)(6), as determined by the Assistant Secretary for Administration, pursuant to subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463) as amended. Approximately thirty seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant Program, 3300 Whitehaven Street, Washington, D.C. 20235.

For further information, contact Mr. Arthur G. Alexiou, Associate Director for Programs, at above address. Telephone (202) 634-4019.

T. P. GLEITER,
Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

MAY 10, 1977.

[FR Doc.77-13819 Filed 5-11-77;8:45 am]

WEATHER MODIFICATION ADVISORY BOARD

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., App. I (Supp. V. 1975), notice is hereby given of the second meeting of the Weather Modification Advisory Board.

The Weather Modification Advisory Board will meet from 9 a.m. to 5 p.m. on May 31 and June 1, 1977, in Room 4830 of the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street NW.)

The Board was established in January 1977 (42 FR 4512, 1-25-77) to advise the Secretary of Commerce on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94-490), enacted on October 13, 1976. The Board consists of 17 members, with a balanced representation selected from scientific, academic, commercial, consumer, legal, and environmental groups, who are appointed by the Secretary of Commerce.

The purpose of this meeting is to hear the programs, plans and views of several Federal agencies involved in some aspect of weather modification, to discuss study papers prepared for the Board and to consider further assignments and actions for the conduct of the study and preparation of the final report to the Secretary of Commerce.

The agenda for the meeting is:

May 31, 1977 (Tuesday):

9-9:15 a.m.	Introductory remarks.
9:15-12 a.m.	Federal agency presentations to include programs, plans and views on weather modification.
12-1 p.m.	Recess for lunch.
1-5 p.m.	Continuation of agency presentations.

June 1, 1977 (Wednesday):

9-12 a.m.	Discussion of study papers on (1) an overview of the state-of-the-art of weather modification research, (2) obstacles to progress in weather modification and (3) outlook for 5 years and 20 years in weather modification.
12-1 p.m.	Recess for lunch.
1-5 p.m.	Discussion and assignment of actions associated with conduct of the study and preparation of the report to the Secretary of Commerce.
5 p.m.	Adjournment.

The meeting will be open to the public and a period will be set aside at the discretion of the Chairman for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments should be submitted in writing before May 25. Other public statements regarding Board affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public (including 5 seats reserved for media representatives) on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to Dr. Ronald L. Lavoie, Director, Environmental Modification Office, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852, 301-443-8721.

T. P. GLEITER,
Assistant Administrator for Administration.

MAY 10, 1977.

[FR Doc.77-13820 Filed 5-11-77;8:45 am]

DEPARTMENT OF DEFENSE

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Subcommittee on Environmental Quality of the Armed Forces Epidemiological Board.

Date of Meeting: 1 June 1977.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Washington, D.C.

Time: 0900-1700.

Proposed Agenda: The proposed agenda will include discussion of problems related to the detection of contaminants in water supplies in the combat environment and means available or under development to remove them, and discussion of problems related to land treatment of waste water effluents.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: 5 May 77.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.77-13480 Filed 5-11-77;8:45 am]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory

Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 5; Tuesday, July 12; Tuesday, July 19; and Tuesday, July 26, 1977 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed in section 552b. of Title 5, United States Code. Two of the matter so listed are those related solely to the internal personnel rules and practices of an agency, (5 U.S.C. 552b.(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and priviliged or confidential (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552 b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552 b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 5, 1977.

[FR Doc.77-13583 Filed 5-11-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 857]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 9, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rule (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceeding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceeding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21226-CD-TC-(8)-77 Morris Communications, Inc. concent to transfer of control from Horace A. Morris, Sr., transferor to Horace A. Morris, Jr. and David O. Kelly, transferees. Station: KFL880, KIY731, and KSV933, Greenville, S.C.; KLF505, KU0629, Spartanburg, S.C.; KWU349, Gaffney, S.C.; KLF904, Seneca, S.C.; KUC905, Anderson, S.C.

21227-CD-AL-(2)-77 Xavier W. Nady consent to assignment of license from Xavier W. Nady, assignor to Answerphone, Inc., assignee. Stations: KLF597, KLF620, Tacoma, Washintgon.

21228-CD-AL-(2)-77 Xavier W. Nady d/b as Mobilephone-Yuma, consent to assignment of license from Xavier W. Nady d/b as Mobilephone-Yuma, assignor to Answerphone, Inc., assignee. Stations: KUD226, KOF906, Yuma, Arizona.

21229-CD-AL-77 AAA Answerphone, Inc.-Jackson, consent to assignment of license from AAA Answerphone, Inc.-Jackson assignor to Alco Telephone Answer-ring Service of Greenville, Mississippi, Inc., assignee. Station: KUC976, Oxford, Mississippi.

21230-CD-AL-(2)-77 Lewis M. Kelly, d/b as Seattle Radiotelephone Service, consent to assignment of license from Lewis M. Kelley, d/b as Seattle Radiotelephone Service, assignor to Kelley's Radio Telephone, Inc. assignee. Stations: KOA733, Seattle, Washington; KLF604, Everett, Washington.

21231-CD-TC-77 Delta Mobile Phone of Arkansas, Inc., consent to transfer of control from Vernon Hull, and G. Douglas Abraham, transferor to Hunter Bell, transferee. Station: KWT964, Helena, Arkansas.

21232-CD-P-77 Tel-Page Corporation (KRH631), C.P. for additional facilities to operate on 152.15 MHz to be located at new site described as Loc. No. 3: 989 James Street, Syracuse, New York.

21234-CD-P-77 Tel-Page Corporation (KUS378), C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. No. 2: 989 James St., Syracuse, New York.

21235-CD-P-77 Fayetteville Communications, Inc. (new), C.P. for a new 1-way station to operate on 158.70 MHz to be located at Mt. Sequoyah, Fayetteville, Arkansas.

21237-CD-P-77 James D. and Lawrence D. Garvey d/b as Radiofone (KUS290), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as Loc. No. 2: 1¼ miles South of Thibodaux, Louisiana.

21238-CD-P-(3)-77 Favetteville Communications, Inc. (KFL899), C.P. to change antenna system, replace transmitter, and relocate facilities operating on 152.12MHz: additional facilities to operate on 152.03, 152.06 MHz to be located at Mt. Sequoyah, Arkansas.

21239-CD-P-(2)-77 Opelika-Auburn Communications, Inc. (KLF555), C.P. for additional facilities to operate on 75.42 MHz at Loc. No. 1: 7½ Miles east of Opelika, Near Mountain Springs Church, Alabama; and 72.02 MHz at Loc. No. 2: 509 South Seventh Street, Opelika, Alabama.

21240-CD-MP-77 Radio Paging, Inc. (KWU 517), modified permit to relocate facilities operating on 454.225 MHz located at Old Montgomery Road, West of Conroe, Texas.

21241-CD-P-(2)-77 Aztec Communications, Inc. (KIQ510), C.P. to replace transmitter operating on 35.58 MHz (Loc. No. 1) located at 1510 Montana Avenue, Jacksonville; change antenna system and relocate facilities operating on 35.58 MHz (Loc. No. 2) to be located 9117 Hogan Road, Jacksonville, Florida.

21242-CD-P-77 P M Communications, Inc. (new), C.P. for a new 2-way station to operate on 454.200 MHz to be located Mt. Nebo 1.25 miles SSW of Roseburg, Oregon.

21244-CD-P-77 Industrial Electronics & Automation Co., Inc. d/b as Big Sky Radio Paging (KUO589), C.P. for additional facilities to operate on 152.12 MHz to be located at a new site described as Loc. No. 2: ¾ Mile East of Bozeman, Montana.

21245-CD-P-77 Continental Telephone Company of Iowa (KAL874), C.P. to change antenna system operating on 152.69 MHz located 0.5 mile south of Coon Rapids, Iowa.

21247-CD-P-77 Blacker's Communications (KWT990), C.P. to relocate control facilities operating on 454.275 MHz (Loc. No. 2) to be located at 2110 Blaine Street, Caldwell, Idaho.

21248-CD-P-(6)-77 James Edwin Walley d/b as Auto-Phone Company (new), C.P. for a new 1-way station to operate on 152.24 MHz (Loc. No. 1) to be located at Pilot Peak, 7½ miles S.W. of Grass Valley: Loc. No. 2 to operate on 152.24 MHz to be located at Mount Cohassett, 16 Miles NE. of Chico: Loc. No. 3 to operate on 152.24

MHz to be located at 1½ miles South of Sunset Hill, Southwest of Forbestown: Loc. No. 4 to operate on 75.72, 75.68, and 75.74 MHz (Control) to be located at 1538 18th Street, Oroville, California.

21249-CD-P-77 JMD, Inc. (KUS230), C.P. for additional facilities to operate on 454.075 MHz to be located at 1000 27th Avenue, S.W., Cedar Rapids, Iowa.

21250-CD-P-77 Messages by Radio, Inc. (KEA200), C.P. for additional facilities to operate on 152.03 MHz to be located at a new site described as Loc. No. 3: One World Trade Center, New York, N.Y.

21251-CD-P-77 Empire Paging Corporation (KWU374), C.P. for additional control facilities to operate on 72.58 MHz to be located at a new site described as Loc. No. 4: Empire State Building, 50 Fifth Avenue, New York, New York.

21252-CD-P-77 Airsignal International, Inc. (KKE964), C.P. to change antenna system, replace transmitter and relocate facilities operating on 454.125 MHz to be located at One Shell Plaza, Houston, Texas.

21253-CD-P-77 Kidd's Communications, Inc. (KLF641), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as Loc. No. 4: 3519 Pinehurst Drive, Bakersfield, California.

21254-CD-P-(2)-77 Kidd's Communications, Inc. (KUO618), C.P. for additional facilities to operate on 158.70 MHz to be located at a new site described as Loc. No. 2: Bear Mountain, 8 Miles East of Arvin; Loc. No. 3 to operate on 72.04 MHz (Control) to be located at 215 East 18th Street, Bakersfield, California.

21255-CD-P-(2)-77 General Electric Company of Florida (KWT890), C.P. for additional facilities to operate on 152.84 MHz to be located at a new site described as Loc. No. 4: Corner of Main St. and S.R. 37, Bradley Junction, Florida.

21256-CD-P-77 Dodge County Telephone Company (KWH346), C.P. to change antenna system and replace transmitter operating on 158.10 MHz located 1.8 miles SW of Reeseville, Wisconsin.

21257-CD-P-77 Answer, Inc. of San Antonio (KKG559), C.P. for additional facilities to operate on 454.325 MHz to be located at a new site described as Loc. No. 5: 411 E. Durango Blvd., San Antonio, Texas.

21258-CD-P-77 J. M. Blodgett d/b as Radio Page (KWT885), C.P. for additional facilities to operate on 35.58 MHz to be located at a new site described as Loc. No. 4: Northgate Apts., Northgate Plaza, Camden, New Jersey.

21260-CD-P-77 General Telephone Company of the Midwest (KAQ620), C.P. to change antenna system operating on 152.63 MHz located at 1.5 miles SW of Manchester, Iowa.

RURAL RADIO

60270-CD-P/L-77 Continental Telephone Company of California (new), C.P. for a new Rural Subscriber-Fixed to operate on 157.83 MHz to be located 32 Miles SSE of Yerington, Nevada.

60271-CD-AL-77 X Nady Jr., Consent to Assignment of License from X Nady Jr., Assignor to Answerphone, Inc., Assignee. Station: KPI67, Temporary-Fixed.

OFFSHORE RADIO TELECOMMUNICATIONS SERVICE

50014-CG-P-(3)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.300, 488.375, 488.225 MHz to be located 43 Miles South of Franklin, La., Eugene Island Area, Gulf of Mexico.

50015-CG-P-(3)-77 Same as above, C.P. for a new station to operate on 488.525, 488.550, 488.475 MHz to be located Block 207A, Ship Shoal Area, Gulf of Mexico.

50016-CG-P-(2)-77 Same as above, C.P. for a new station to operate on 488.250, 488.325 MHz to be located at Block 296B, Eugene Island Area, Gulf of Mexico.

50017-CG-P-(2)-77 Same as above, C.P. for a new station to operate on 488.075, 488.125 MHz to be located 60 miles south of Lake Charles, Block 192A, West Cameron Area, Gulf of Mexico.

50018-CG-P-77 Same as above, C.P. for a new station to operate on 488.250 MHz to be located 85 miles south of New Iberia, La., Block 50, South Marsh Island, Gulf of Mexico.

50019-CG-P-77 The offshore Telephone Company (new), C.P. for a new station to operate on 488.525 MHz to be located in South Timbalier Area, Gulf of Mexico.

50020-CG-P-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.275 MHz to be located 140 Miles Southwest of Jennings, Louisiana, Vermillion Area, Gulf of Mexico.

50021-CG-P-(3)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.025, 488.100, and 488.175 MHz to be located 90 Miles South-Southeast of Port Arthur, Texas, High Island Area, Gulf of Mexico.

50022-CG-P-(2)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.350 and 488.450 MHz to be located 140 miles south of Jennings, Louisiana, East Cameron Area, Gulf of Mexico.

50023-CG-P-(2)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.050 and 488.200 MHz to be located in East Cameron Island Area, Gulf of Mexico.

50024-CG-P-(2)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.075 and 488.125 MHz to be located 55 miles Southeast of Grand Chenier, Block 119, Gulf of Mexico.

50025-CG-P-(3)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.500, 488.575, and 488.700 MHz to be located in West Delta Area, Gulf of Mexico.

POINT TO POINT MICROWAVE RADIO SERVICE

2178-CF-MP-77 United Telephone Company of Florida (KIU43), 21 North Lake Avenue, Avon Park, Florida, lat. 27°35'47" N., long. 81°30'10" W. C.P. to change frequencies 5945.2V to 5980.0V; 6004.5V to 6041.6V; 6063.8V to 6160.2V MHz toward Crewsville and 6093.5V to 5945.2H MHz toward Frostproof and replace antenna on frequency 6004.5V MHz toward Hillcrest.

2223-CF-P-77 The Chesapeake and Telephone Company of Virginia (KIR29), 703 East Grace Street Richmond, Virginia, lat. 37° 32' 26" N., long. 77° 26' 13" W. C.P. to change frequencies 10955V, 6330.7H to 11055V, 10895V MHz toward Chester, Virginia on azimuth 180.5 degrees and replace antenna and transmitters.

2225-CF-P-77 Same (KIA81), Eastern Boundary of Chester, Virginia, lat. 37°21'-32" n. long. 77°28'20" W. C.P. to change frequencies 11405V, 6049.0H to 11265V, 11585V MHz toward Richmond, Virginia on azimuth 0.5 degrees.

2254-CF-P-77 The Bell Telephone Company of Pennsylvania (WGH95), Applebee 3.8 miles NNW. of Bethel, Pennsylvania, lat. 40°30'58" N., long. 76°20'09" W. C.P. to add antenna on frequency 11405V MHz toward Sharp Mt. passive reflector and from passive reflector to Pottsville, Pennsylvania.

2259-CF-P-77 Hawaiian Telephone Company (KUQ93), Renewal of Development radio license expiring 5-23-77 term: 5-23-77 to 5-23-78.

2263-CF-P-77 Virgin Islands Telephone Corporation (WWT57), 48A Krondprindsens Gade Charlotte Amalie, Virginia Islands, lat. 18°20'34" N., long. 64°56'23" W. C.P. to add frequency 6026.7V MHz toward Hawk Hill PR on azimuth 289.15 degrees and from passive reflector to Crown Mt., on azimuth 19.6 degrees.

2265-CF-P-77 Same (WWT60), Crown Mt. 4.4 Km N/M of Charlotte Amalie, Virgin Islands, lat. 18°21'32" No., long. 64°58'23" W. C.P. to add frequencies 6308.4V MHz toward C-Sted on azimuth 157.4 degrees and 6278.8V MHz toward Hawk Hill PR from passive reflector to Charlotte Amalie on azimuth 109.4 degrees.

2266-CF-P-77 Same (WWY43), C-Sted No. 10 King St. Christiansted, Virgin Islands, lat. 17°44'50" N., long. 64°42'20" W. C.P. to add frequency 6056.4V MHz toward Crown Mt., Virgin Island on azimuth 337.20 degrees.

2267-CF-P-77 Wisconsin Telephone Company (WBB354), 5 miles SW of Waukesha CTHX Waukesha, Wisconsin, lat. 42°57'-34" N., long. 88°18'02" W. C.P. to add a new point of communication on frequencies 10855V, 11015V, 10935V MHz toward Davidson Rd., Wisconsin on azimuth 51.3 degrees.

2268-CF-P-77 Same (new) Davidson Rd. 2140 Davidson Rd. Waukesha, Wisconsin, lat. 43°01'34" N. long. 88°11'14" W. C.P. for a new station on frequencies 11465V, 11625V, 11545V, MHz toward Waukesha on azimuth 231.3 degrees and 11465V, 11625V, 11545V MHz toward Meno Falls, on azimuth 26.5 degrees.

2269-CF-P-77 Wisconsin Telephone Company (new), N91 W73749 Warren St., Menomonee Fall, Wisconsin, lat. 43°10'59" N. long. 88°04'49" W. C.P. for a new station on frequencies 10855V, 11015V, 10935V MHz toward Davidson Rd. on azimuth 206.6 degrees and 10735V, 10895V, 10975V MHz toward Slinger on azimuth 321.5 degrees.

2270-CF-P-77 Same (new), 2.2 miles East of Slinger, Wisconsin, lat. 43°19'29" N., long. 88°14'06" W. C.P. for a new station on frequencies 11425V, 11585V, 11665V MHz toward Meno Falls on azimuth 141.4 degrees, 11425V, 11585V MHz toward Kohlsville on azimuth 330.8 degrees and 11425H, 11625H MHz toward West Bend on azimuth 28.2 degrees.

2271-CF-P-77 Same (new), 1.5 miles West of Kohlsville, Wisconsin, lat. 43°28'29" N., long. 88°21'01" W. C.P. for a new station on frequencies 10735V, 10895V MHz toward Slinger, Wisconsin on azimuth 150.7 degrees and 10855V, 10895H MHz toward South Byron on azimuth 332.4 degrees.

2272-CF-P-77 Same (new), 1 mile East of South Byron, Wisconsin, lat. 43°38'14" N. long. 88°28'03" W. C.P. for a new station on frequencies 11465V, 11585H MHz toward Kohlsville on azimuth 152.3 degrees and 11465V, 11585H MHz toward No Fondulac on azimuth 354.4 degrees.

2273-CF-P-77 Same (new), 2 miles North of No Fond du lac, Wisconsin, lat 43°50'01" N., long. 88°29'39" W. C.P. for a new station on frequencies 10855V, 10895H MHz toward South Byron on azimuth 174.4 degrees and 10735V, 10855H MHz toward Oshkosh on azimuth 349.6 degrees.

2274-CF-P-77 Same (WHU23), 315 Algoma Boulevard, Oshkosh, Wisconsin, lat. 44°01'11" N., long. 88°32'30" W. C.P. to add a new point of communication on frequencies 11425V, 11465H MHz toward No Fondulac on azimuth 169.5 degrees and 11425V, 11465H MHz toward V/O Larsen on azimuth 348.9 degrees.

2293-CF-P-77 Sam (new), V/O Larsen 2.2 miles Northwest of Larsen, Wisconsin, lat. 44°10'49" N., long. 88°35'07" W. C.P. for a new station on frequencies 10735V, 10855H MHz toward Oshkosh on azimuth 168.9 degrees and 10815V, 11015H MHz toward Appleton on azimuth 57.1 degrees.

2275-CF-P-77 Same (KSO85), West Washington St., Appleton, Wisconsin, lat. 44°15'45" N., long. 88°24'30" W. C.P. to add a new point of communication on frequencies 11505V, 11625H MHz toward V/O Larsen on azimuth 237.2 degrees.

2276-CF-P-77 Same (new), 1.5 miles East of West Bend, Wisconsin, lat. 43°25'47" N., long. 88°02'28" W. C.P. for a new station on frequencies 10735H, 11015V MHz toward Slinger, Wisconsin on azimuth 208.2 degrees.

2279-CF-P-77 Same (KSO85), 221 West Washington St., Appleton, Wisconsin, lat. 44°15'45" N., long. 88°24'30" W. C.P. to add frequencies 11505V, 11385V MHz toward Osborn on azimuth 9.1 degrees.

2280-CF-P-77 Wisconsin Telephone Company (KSO86), Osborn 3.7 miles SW of Seymour, Wisconsin, lat. 44°27'58" N., long. 88°21'47" W. C.P. to add a new point of communication on frequencies 10815V, 10775V MHz toward Appleton on azimuth 189.1 degrees and 10815V, 10775V MHz toward Oneida on azimuth 69.0 degrees.

2281-CF-P-77 Same (new), 1.1 miles West of Onedia, Wisconsin, lat. 44°30'28" N., long. 88°12'40" W. C.P. for a new station on frequencies 11505V, 11385V MHz toward Osborn on azimuth 249.1 degrees. 11505V, 11385V MHz toward South Chase on azimuth 15.4 degrees and 11505V, 11305V MHz toward Green Bay on azimuth 88.2 degrees.

2282-CF-P-77 Same (new), 0.5 miles ESE of South Chase, Wisconsin, lat. 44°41"17" N., long. 88°08'30" W. C.P. for a new station on frequencies 10815V, 10775V MHz toward Onedia on azimuth 195.4 degrees and 10815V, 10775V MHz toward Stiles Jct. on azimuth 19.7 degrees.

2283-CF-P-77 Same (new), 0.2 miles East of Stiles Junction, Wisconsin, lat. 44°33'06" N., long. 88°02'32" W. C.P. for a new station on frequencies 11505V, 11385V MHz toward South Chase on azimuth 199.8 degrees and 11505V, 11385V MHz toward Peshtigo on azimuth 50.9 degrees.

2284-CF-P-77 Same (new), 7.5 miles SW. of Peshtigo, Wisconsin, lat. 44°59'27" N., long. 87°51'30" W. C.P. for a new station on frequencies 10815V, 10775V MHz toward Stiles Jct. on azimuth 231.1 degrees and 10815V, 10775V MHz toward Marinette on azimuth 56.6 degrees.

2285-CF-P-77 Same (new), 1727 Stephenson, Marinette, Wisconsin, lat. 45°05'50" N., long. 87°37'49" W. C.P. for a new station on frequencies 11505V, 11385V MHz toward Peshtigo, Wisconsin on azimuth 236.7 degrees.

2286-CF-P-77 Same (KS087), 205 South Jefferson Street, Green Bay, Wisconsin, lat. 44°30'43" N., long. 88°00'50" W. C.P. to add a new point of communication on frequencies 10815V, 10775V MHz toward Oneida, Wisconsin on azimuth 268.4 degrees.

2288-CF-P-77 General Telephone Company of Pennsylvania (WBA883), 131 W. 9 Street, Erie, Pennsylvania, lat. 42°07'31" N., long. 80°05'10" W. C.P. to add frequency 11385V MHz toward McKean, Pennsylvania.

2289-CF-P-77 Same (WBA884), 2 miles East of McKean, Pennsylvania, lat. 41°59'25" N., long. 80°06'07" W. C.P. to add frequency 10855V MHz toward Erie and a new point of communication on frequency 6226.9H MHz toward Frenchtown, Pennsylvania 177.8 degrees.

1956-CF-ML-77 American Telephone and Telegraph Company (KIL24), 3.75 miles NW of Safford, (Dallas) Alabama. Modification of License to correct coordinates to read lat. 32°17'19" N., long. 87°22'17" W.; correct azimuths toward Pleasant Hill and Aimwell, Alabama to read 44.8 degrees and 52.5 degrees respectively.

2187-CF-P-77 American Television and Communications Corporation (KYC45), Beauty Lake, 3.8 miles South, 1.8 miles east of Silica, Minnesota, lat. 47°12'55" N., long. 93°03'25" W. Construction permit to correct transmit station coordinates and to add 6182.4H MHz toward Hoyt Lakes, Minnesota, on azimuth 64.1 degrees.

2188-CF-P-77 American Television and Communications Corporation (new), Hoyt Lakes, Minnesota, lat. 47°30'36" N., long. 92°08'59" W. Construction permit for new station—6241.7V MHz toward Babbitt, Minnesota, on azimuth 42.9 degrees.

2189-CF-P-77 American Television and Communications Corporation (new), Babbitt, Minnesota, lat 47°41'17" N., long. 91°54'17" W. Construction permit for new station—5960.0V MHz toward Ely, Minnesota, on azimuth 6.4 degrees.

2241-CF-P-77 Eastern Microwave, Inc. (WQR73), 2850 Berthoud Street, Pittsburgh, Pennsylvania, lat. 40°26'46" N., long. 79°57'51" W. Construction permit to add 11545.0V MHz toward Oakdale, Pennsylvania, via power split, on azimuth 250.9 degrees.

2287-CF-P/ML-77 Bell Telephone Company of Nevada (KPF80), Temporary fixed-developmental in the territory of the Grantee. Construction permit and modification of license to add frequency band 17700-19700 MHz to existing frequency band.

2290-CF-P-77 Penn Service Microwave Company, Inc. (WQQ37), Wyoming Mtn., 4 miles SSE of Wilkes-Barre, Pennsylvania, lat. 41°11'53" N., long. 75°49'16" W. Construction permit to replace transmitters and to add 5960.0H and 6160.2H MHz toward Meehoopany and to add same frequencies to Chestnut Hill with Vertical polarization, both in Pennsylvania, via power split.

2291-CF-P-77 Midwestern Relay Company (WLJ55), Rib Mountain, WAOW-TV transmitter, Wausau, Wisconsin, lat. 44°55'15" N., long. 89°41'30" W. Construction permit to add 6034.2H MHz toward Tims Hill, Wisconsin, on azimuth 326.9 degrees.

2345-CF-TC-(12)-77 Video Service Company, Applications for pro forma transfer of control of point to point microwave radio authorizations of Video Service Company, from Cox Cable Communications, Inc. (before merger), Transferor, to Cox Cable Communications, Inc. (after merger) Transferee, for the following stations:

KSO93, Wellsboro, Indiana.
KSO94, DeLong, Indiana.
KVO52, Peru, Indiana.
WBA765, Huntington, Indiana.
KSO92, Scircleville, Indiana.
WQQ96, Kokomo, Indiana.
WQQ97, Anderson, Indiana.
WQQ98, Morristown, Indiana.
KSP63, Logansport, Indiana.
KSP64, Monticello, Indiana.
KSQ36, Lafayette, Indiana.
KSQ37, Attica, Indiana.

2181-CF-P-77 Eastern Shore Communications Corporation (new), Beaver Point, 19.3 miles NW. of Price, Utah, lat. 39°45'20" N., long. 110°59'30" W. Construction permit for new station—5969.7H, 6049.0H, 6108.3H, and 6167.6H MHz toward Bald Mesa and same frequencies with Vertical polarity toward Price, both in Utah, on azimuths 133.0 and 136.0 degrees, respectively, via power split.

2182-CF-P-77 Eastern Shore Communications Corporation (new), Bald Mesa, 12.3 miles ESE of Moab, Utah, lat. 38°31'43" N., long. 109°19'28" W. Construction permit for new station—6234.3V, 6293.6V, 6352.9V, and 6412.2V MHz toward Moab, Utah, via passive reflector located at Moab, Utah, lat. 38°34'27" N., long. 109°33'02" W., on azimuths, 284.5 and 23.9 degrees, respectively.

2030-CF-P-77 American Telephone and Telegraph Company (KGG35), Topton Mtn., 0.03 miles North of Henningsville (Berks), Pennsylvania. Modification of license to correct structure height to show a increase 20 feet as approved for station KLJ463, The Bell Telephone Company of Pennsylvania.

MAJOR AMENDMENT

1208-CF-P-77 New York Telephone (new), 15 Cedar Street, Nyack, New York, lat. 41°05'25" N., long. 73°55'11" W. Application amended to add frequencies 19590V, 19590H MHz toward a new point of communication, General Motors, Beckman Avenue, N. Tarrytown, New York, on azimuth 100.42 degrees.

843-CF-P-77 Southern Montana Telephone Company (new), Lloyd Street, Jackson, Montana, lat. 45°22'05" N., long. 113°-24'35" W. Application amended to change frequency from 2110.8H to 2121.6V MHz towards Hirschy, Montana.

844-CF-P-77 Same (new), Hirschy, 14.5 Km. NW. of Jackson, Montana, lat. 45°28'23" N., long. 113°31'08" W. Application amended to change frequencies from 2160.8H to 2171.6V MHz toward Jackson, Montana and 2179.0V to 2165.2V MHz toward Wisdom, Montana.

845-CF-P-77 Same (new), 2nd Street, Wisdom, Montana, lat. 45°37'05" N., long. 113°26'56" W. Application amended to change frequency from 2129.0V to 2115.2V MHz toward Hirschy, Montana.

[FR Doc.77-13587 Filed 5-11-77;8:45 am]

[Report No. 1045]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

MAY 9, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20418 (RM-2346 & RM-2727).		Petition for rulemaking to amend Television Table of Assignments to add new VHF stations in the top 100 markest and to insure that the new stations maximize diversity of ownership, control, and programing. Filed by Louis Schwartz, Robert A. Woods and Lorence L. Kessler, attorneys for The Mohawk-Hudson Council on Educational Television.	Apr. 29, 1977.
20009	Pts. 89, 91, and 93.	Amendment of pts. 89, 91, and 93 of the rules to reallocate land mobile channels in the 470-512 MHz band in the Boston, Chicago, Cleveland, Detroit, Los Angeles, New York, Philadelphia, Pittsburgh, San Francisco, and Washington, D.C., urbanized areas. Filed by Joseph M. Kittner and Virginia S. Carson, attorneys for Associated Public-Safety Communications Officers, Inc.	May 3, 1977.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13586 Filed 5-11-77;8:45 am]

WARC-79 SATELLITE BROADCASTING SERVICE GROUP

Change in Advisory Committee Meeting Date

MAY 9, 1977.

The May 9, 1977, FEDERAL REGISTER contained notice of an advisory committee meeting to be held by the 1979 World Administrative Radio Conference (WARC) Satellite Broadcasting Group on June 1, 1977, at 9:30 a.m. After preparation of the public notice for this meeting, the committee chairman learned that he would have to attend international telecommunication meetings in Geneva, Switzerland on the scheduled meeting date. Accordingly, the Commission wishes to re-schedule this meeting for May 26.

It has been necessary to schedule the meeting for a date in advance of June 1 to permit the committee to prepare and submit timely comments to the Commission's Fifth Notice of Inquiry. The Commission will consider the Fifth Notice of Inquiry this week. If the Notice is adopted, comments will be required by mid-July. To postpone the advisory committee meeting until after the chairman's return from Geneva would delay work on the committee's consideration of the Fifth Notice and make it difficult to prepare formal comments within the deadline established by the Commission.

In re-scheduling the meeting for May 26, the Commission recognizes that this FEDERAL REGISTER notice may not fully comply with the Office of Management and Budget's requirement for 15 days advance notification of advisory committee meetings. However, because of the reasons previously cited and in view of the fact that notice of the Commission's intention to hold the meeting has been previously published in the FEDERAL REGISTER, the Commission feels that an exception to the OMB requirement is justified. Accordingly, the Satellite Broadcasting Service Group will meet from 9:30 a.m. to 12:30 p.m. on May 26, 1977, in Room 6331 of the Commission's offices at 2025 M Street NW., Washington, D.C. The agenda for this meeting will be the same as stated in the May 9 FEDERAL REGISTER:

1. Call to Order and Announcements by the Chairman.
2. Approval of Minutes of Previous Meetings.
3. Discussion of Fifth Notice of Inquiry in Docket 20271.
4. Reports from Tasks Groups.
5. Further Discussion.
6. Next Meeting Date and Adjournment.

The meeting is open to broadcast industry representatives and interested members of the public. Members of the public may participate by means of oral or written statements. Individuals should contact Charles Breig, (202) 632-6495, for further details.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13585 Filed 5-11-77;8:45 am]

[FCC 77-277; Docket No. 21209, CSC-170 (PA0860)]

WIRE TELE VIEW CORP.

Order To Show Cause

Adopted: April 20, 1977.

Released: May 6, 1977.

In re: Wire Tele View Corporation, Pottsville, Pa., petition for issuance of a show cause order.

1. Scranton Broadcasters, Inc., licensee of Translator Station W78AK, Pottsville, Pennsylvania, has petitioned for an order to show cause against Wire Tele View Corporation. Tele View operates a cable television system serving Pottsville, Pennsylvania. The petition is unopposed.

2. Scranton Broadcasters has submitted its letter to Tele View, dated December 15, 1976, in which it demands carriage and network program nonduplication protection for W78AK. It says this is one of many similar requests which have all been either ignored or rejected. Our review of the evidence demonstrates that Scranton Broadcasters has made a prima facie case entitling its translator to both carriage and nonduplication protection on the Pottsville cable system.

a. *Carriage*

3. Section 76.57 of the Commission's rules, which estabilshes carriage rights for cable systems located outside all television markets, such as the Pottsville system, states, in relevant part:

> A cable television system operating in a community located wholly outside all major and smaller television markets * * * may carry or, on request of the relevant station licensee * * * shall carry the signals of * * * television translator stations with 100 watts or higher power serving the community of the system.

W78AK is licensed to serve Minersville, Port Carbon, and Pottsville at 100 watts of power. Therefore, barring evidence to the contrary, we must presume that the station actually does serve Pottsville.

b. *Nonduplication rights*

4. Station W78AK rebroadcasts the programming carried by Station WDAU-TV (CBS, Channel 22) Scranton, Pennsylvania. Tele View's latest informational filing with the Commission (FCC Form 325) indicates that it carries two CBS affiliates on its system: Stations WCAU-TV (CBS, Channel 10), Philadelphia, Pennsylvania and WLYH-TV (CBS, Channel 15), Lancaster, Pennsylvania. Section 76.92(d), governing network nonduplication rights for translators, says:

> Any cable television system operating in a community to which a 100 watt or higher power translator station is licensed, which translator is located within the predicted Grade B signal contour of the television broadcast station that the translator station retransmits, and which translator is carried by the cable system, shall, upon request of such translator station licensee * * * delete the duplicating network programming of any television broadcast station whose reference point * * * is more than 55 miles from the community of the system.

Pottsville is within WDAU-TV's Grade B contour. Philadelphia's reference point is 74.74 miles from Pottsville, while the distance between Lancaster and Pottsville is 44.76 miles. Therefore, it appears TV, and would not be required to protect CBS programming broadcast by W78AK which is simultaneously duplicated by the Philadelphia CBS affiliate carried on the Pottsville system, WCAU-TV, and would not be reqwuired to provide protection against WLYH-TV.

Accordingly, it is ordered, That the "Request for Order to Show Cause" filed by Scranton Broadcasters, Inc. (CSC-170) is granted.

It is further ordered, That pursuant to Sections 312 (b) and (c) and section 409(a) of the Communications Act of 1934, as amended, 47 U.S.C. 312 (b) and (c) and 409(a), Wire Tele View Corporation is directed to show cause why it should not be ordered to cease and desist from further violation of §§ 76.57 and 76.92 et seq. of the Commission's rules and regulations on its cable system at Pottsville, Pennsylvania.

It is further ordered, That Wire Tele View Corporation is directed to appear

and give evidence with respect to the matters described above at a hearing to be held at a time and place and before an Administrative Law Judge to be specified by subsequent order, unless hearing is waived, in which event a written statement may be submitted.

It is further ordered, That Scranton Broadcasters, Inc., shall be made a party to this proceeding.

It is further ordered, That the Cable Television Bureau shall be made a party to this proceeding.

It is further ordered, That the Secretary of the Federal Communications Commission shall send copies of this order by certified mail to Wire Tele View Corporation.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13588 Filed 5-11-77;8:45 am]

FEDERAL MARITIME COMMISSION

SECURITY FOR THE PROTECTION OF THE PUBLIC FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Mitsui O.S.K. Lines (Passenger), Ltd. and Sawayama Steamship Co., Ltd., C/O Mitsui O.S.K. Lines, Ltd., One World Trade Center, New York, New York 10048.

Dated: May 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13600 Filed 5-11-77;8:45 am]

SECURITY FOR THE PROTECTION OF THE PUBLIC INDEMNIFICATION OF PASSENGERS FOR NONPERFORMANCE OF TRANSPORTATION

Issuance of Certificate [Performance]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Mitsui O.S.K. Lines (Passenger), Ltd. and Sawayama Steamship Co., Ltd., c/o Mitsui O.S.K. Lines, Ltd., One World Trade Center, New York, New York 10048.

Dated: May 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13599 Filed 5-11-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-325]

APPALACHIAN POWER CO.

Rate Filing

MAY 5, 1977.

Take notice that Appalachian Power Company (APCO) on April 28, 1977 tendered for filing Supplements to twenty Rate Schedules on file with the Commission.

APCO indicates that the charges reflected in these Supplements primarily involve increased demand and energy charges and a revised fuel adjustment clause. APCO further indicates that the proposed rate increase is occasioned by increases in the cost of providing electric service, however, no facilities will be installed or modified in order to supply the service to be furnished under the proposed rate.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power 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 May 20, 1977. 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.77-13542 Filed 5-11-77;8:45 am]

[Docket No. ER77-330]

BOSTON EDISON CO.

Contract Filing

MAY 5, 1977.

Take notice that Boston Edison Company (Boston) on April 28, 1977, tendered for filing a contract between itself and New England Power Company providing for the construction and operation of an additional interconnection between their two systems. Boston indicates that the costs of the proposed interconnection have not been determined and no diagram of the facilities to be constructed is available. Boston further indicates that a copy of this filing was served upon New England Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power 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 May 20, 1977. 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.77-13540 Filed 5-11-77;8:45 am]

[Docket No. ER77-327]

CARDINAL OPERATING CO.

Tariff Change

MAY 5, 1977.

Take notice that Cardinal Operating Company (Cardinal), on April 28, 1977, tendered for filing a proposed Amendment No. 3, dated as of March 1, 1977, to the Station Agreement, dated as of January 1, 1968, as amended, filed as Rate Schedules Nos. 1 and 69, respectively, of Cardinal Operating Company and Ohio Power Company, among those companies and Buckeye Power, Inc. Ohio Power Company has filed a certificate of concurrence, concurring in the filing by Cardinal Operating Company.

Cardinal indicates that the proposed changes involve modifications of certain definitions contained in Amendment No. 1 to the Station Agreement, which are necessitated by the proposed issuance by Buckeye Power, Inc. of additional First Mortgage Bonds, to complete the financing and construction of 615 MW generating unit at the Cardinal Station.

Cardinal requests waiver of the Commission's notice requirements to allow the proposed Amendment to be effective as of May 20, 1977.

Cardinal further indicates that copies of the proposed Amendment have been furnished to The Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1977. 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 proceedings. 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.77-13548 Filed 5-11-77;8:45 am]

[Docket No. ER76-495 and E-8884 (Phase I) (AFUDC Issue)]

CAROLINA POWER AND LIGHT CO.

Order Reopening Record and Severing AFUDC Issue From Prior Proceeding and Consolidating Determination of That Issue With Determination of AFUDC Issue, in Later Proceeding

MAY 6, 1977.

On April 7, 1977, Presiding Administrative Law Judge George P. Lewnes certified to the Commission, pursuant to Section 1.28 of the Commission's Rules of Practice and Procedure, an appeal by the Commission Staff of the denial of a Staff motion dated March 29, 1977, to sever for separate hearing and determination the issue of the proper accrual rate for Allowance For Funds Used During Construction (AFUDC) for purposes of determining (1) the proper rate base in the instant proceeding and (2) whether Carolina Power and Light Company's (CP&L) plant accounts should be retroactively modified. Judge Lewnes denied Staff's motion for severance on the ground that the issue of the proper AFUDC rate had been raised in the proceeding and therefore should have been addressed by Staff in its evidentiary presentation. For the reasons set forth herein, the Commission shall grant Staff's motion subject to modifications.

Staff notes that by letter order dated August 23, 1974,[1] the Commission reserved decision on amounts capitalized for AFUDC at a rate in excess of 6.5%.[2] Staff argues that although all parties have severed evidence in this phase of the proceeding, further evidence is necessary in light of Order No. 561, — FPC — issued February 2, 1977, in Docket No. RM75-27 which established a procedure for determining the proper AFUDC rate *prospective* from January 1, 1977. Staff states that although the AFUDC issue was addressed by CP&L and Intervenors,[3] it was not addressed by Staff because Staff's evidence was filed prior to the date of issuance of Order No. 561. Staff states that if its motion is granted, Staff believes it could serve evidence on the AFUDC issue in late June, 1977, and that, after the establishment of a date for answering evidence by CP&L and Intervenors, the hearing could reconvene in September, 1977.

On April 20, 1977, CP&L filed an answer opposing Staff's motion. CP&L argues that Staff had an opportunity to address the AFUDC issue and failed to do so. CP&L states that the record, which includes direct and cross-examination of witnesses for CP&L and Intervenors on the AFUDC issue, including the impact of Order No. 561 thereon, is sufficient to enable the Commission to decide the issue without further proceedings. Furthermore, CP&L argues that Order No. 561 is currently on rehearing for purposes of further consideration and may be subsequently altered by a further rehearing order. In any event, CP&L argues that the Commission has already indicated that Order No. 561 will not control periods prior to January 1, 1977. Therefore CP&L urges that no good purpose would be served by granting Staff's motion.

On April 15, 1977, Intervenors filed an answer supporting Staff's motion stating *inter alia* that although the record contains the Intervenors' evidence on the AFUDC issue, the record would be enhanced by presentation of the Staff's views. Intervenors also state that the issue is one of the first impression. On the same date Intervenors also filed a motion in Docket Nos. E-8884 (Phase I) and the present docket, ER76-495 requesting severance of the AFUDC issues from Docket No. E-8884 (Phase I) and consolidation of that issue with the severed AFUDC proceeding in Docket No. ER76-495. Intervenors note that by Order issued July 12, 1976, in Docket No. E-8884 (Phase I) the Commission reopened the record for the taking of evidence on the "price squeeze" issue and that due to the pendency of settlement discussions no evidence has been served on that issue. Docket No. ER76-495 is CP&L's next rate increase following E-8884 (Phase I) and the parties and issues in both proceedings are said to be the same. Intervenors argue that the AFUDC issue is essentially the same in both proceedings and should therefore be decided in one hearing and decision.

On May 2, 1977, CP&L filed an answer to Intervenor's April 15, 1977, motion restating the arguments set forth in its April 20, 1977, pleading and applying them to the proceedings in Docket No. E-8884 (Phase I). Specifically, CP&L argues that granting of Intervenors's motion will delay the proceeding in Docket No. E-8884 (Phase I), wherein all issues except for "price squeeze" are ripe for decision by the Presiding Judge.

Although the Commission stated that Order No. 561 would not automatically be applied to periods prior to its issuance, the principles stated therein are relevant in the determination of the proper AFUDC rate for rate and accounting purposes.[4] Accordingly, it is appropriate to reopen the record in Docket Nos. E-8884 (Phase I) and ER76-495 to receive further evidence on the AFUDC issue in light of Order No. 561. Accordingly, the Commission shall sever the issue of the proper AFUDC rate for CP&L for rate and accounting purposes from Docket No. E-8884 (Phase I), consolidate the trial of the issue in that docket with the trial of that issue in Docket No. ER76-495 for purposes of hearing and decision, and shall direct the Presiding Judge in Docket No. ER76-495 to establish appropriate dates for service of supplemental evidence and for hearings on the AFUDC issue.

The Commission finds: Good cause exists to grant Staff's motion to sever the AFUDC issue as hereinafter ordered and conditioned.

The Commission orders: (A) The issue of the proper AFUDC rate for accounting and rate purposes in Docket No. E-8884 (Phase I) is hereby severed from that proceeding and consolidated for purposes of hearing and decision with the trial of that issue in Docket No. ER76-495.

(B) The Presiding Judge in Docket No. ER76-495 shall establish appropriate dates for service of supplemental evidence and for hearings for the determination of the AFUDC issue in that docket and Docket No. E-8884 (Phase I).

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13562 Filed 5-11-77;8:45 am]

[Docket Nos. E-8546 and E-8885]

THE CINCINNATI GAS & ELECTRIC CO.

Proposed Settlement Agreement

MAY 6, 1977.

Take notice that on April 21, 1977, The Cincinnati Gas & Electric Company filed with the Presiding Law Judge a proposed Settlement Agreement in the above-referenced dockets on behalf of The Cinncinnati Gas & Electric Companl and the Village of Georgetown, Ohio, (Georgetown), requesting that it, along with the record, be certified to the Commission for approval.

The proposed Agreement would terminate the two consolidated dockets. Docket No. E-8546 involves a complaint filed by Georgetown alleging that CG&E violated Section 205 of the Federal Power Act and certain rules, regulations, and orders issued by the Commission. Docket No. E-8885 involves a proposed electric tariff to cancel and supersede rate schedules then on file with the Commission for wholesale electric service to the Villages of Bethel, Blanchester, Georgetown, Hamersville, and Ripley, Ohio and the West Harrison Gas and Electric Comjany, which serves West Harrison, Indiana.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 27, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13551 Filed 5-11-77;8:45 am]

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[1] A copy of the letter is attached to Staff's March 29, 1976, motion.

[2] CP&L increased its AFUDC rate from 6 to 8% on January 1, 1965.

[3] Electricities of North Carolina and the Cities of Bennettsville and Camden, South Carolina.

[4] *Public Service Company of Indiana* — FPC — Opinion No. 783 issued November 10, 1976, in Docket No. E-8586 *et al. Florida Power and Light Company* — FPC — Opinion No. 784 issued December 15, 1976, in Docket No. E-8008.

[Docket No. CP73-237]

COLORADO INTERSTATE GAS CO.

Petition To Amend

MAY 5, 1977.

Take notice that on April 18, 1977, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP73-237 a petition to amend the Commission's order of August 29, 1973 (50 FPC 588), as amended by order issued October 6, 1976 (56 FPC —), issued in the instant docket pursuant to Section 7 of the Natural Gas Act so as to authorize the revision and changes of certain facilities necessary to develop, maintain, and operate the Boehm Field in Morton County, Kansas, as an underground storage reservoir and to extend the time for completion of construction, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that by the order of August 29, 1973, it was authorized to acquire, construct, and operate certain facilities necessary to develop, maintain and operate the Boehm Field in Morton County, Kansas, as an underground gas storage reservoir. Thirty-two storage injection-withdrawal wells, 5 observation wells, and 10 field line gas heater-separators, among other facilities, were authorized over a 4-year period beginning in 1973, it is said. Petitioner states that by the order of October 6, 1976, the authorized maximum reservoir stablized shut-in-pressure was increased from 1,441 psia to 1,730 psia and the maximum inventory of stored gas was limited to 24,800,000 Mcf of natural gas at 14.73 psia.

By this petition, Petitioner requests that the authorization be further amended to authorize the following revisions and changes:

1. A reduction in the number of injection-withdrawal wells from 32 to 30,

2. An increase in the number of observation wells from 5 to 11, including authority to complete 2 observation wells in 1977, and

3. A 1-year extension of time to complete the development of the Boehm storage field.

Petitioner requests also that the data submitted in the original application be revised to reflect a reduction in the estimated gas in place on January 1, 1973, from 8,250,000 Mcf to 6,000,000 Mcf. Petitioner states that it does not propose that the current authorized maximum gas inventory of 24,800,000 Mcf be changed.

Petitioner indicates that data obtained from development and operation of the Boehm Field over the past 4 years point out the need to correct and/or revise certain estimates in data present in its application as amended. Petitioner states that the configuration of the "G" sand and Keyes sand reservoirs has been better defined as the Boehm storage field and has been developed and operated since 1973, and that the reservoirs are not configured, nor are they as extensive, as estimated during design of the field for storage. Consequently, five wells (Well Nos. 2, 20, 21, 25, and 29) that were contemplated for injection-withdrawal purposes have been redesignated as observation wells because they were completed in poor sand areas of the reservoirs, it is said. It is stated that there is some possibility that three of these redesignated wells (Well Nos. 20, 21 and 29) may become suitable for injection-withdrawal use dependent upon the gas migration trends and that, as a result, the number of injection-withdrawal wells has been reduced from 32 to 27 with the potential of increasing the number to 30 if three of the presently designated observation wells become suitable for storage use sometime in the future.

Petitioner further states that four of the five wells (Well Nos. 5, 6, 7, and 8) that were programmed for conversion to observation use have been completed and that Petitioner did not purchase the fifth well (Well No. 3) as initially proposed because it was determined that this well had been originally completed so low in the structure that it was very unlikely that gas would migrate to that location. Therefore, the well is of questionable use for observation purposes, it is said.

It is stated that the rise in pressure in two of the observation wells (Well Nos. 6 and 8) during an injection cycle indicated that gas was migrating toward two existing abandoned wells located on the periphery of the field and that these wells are not included in Petitioner's initial design and development program. However, it is said, the wells were found to penetrate the storage formations; consequently, Petitioner believes it prudent to re-enter and convert these wells (Well Nos. 38 and 39) for observation use to preclude the potential danger of a blowout as well as providing a means to monitor gas migration in the field. Petitioner states that re-entry of these wells is scheduled for completion during the 1977 construction season and that the cost to re-enter the two dry holes is approximatelv $244,192.

Petitioner states that the gas in place in the Boehm Field when it assumed control of the facility in 1973 was estimated based on composite pressure-production declined data that included the Purdy, "G" and Keyes sands. It is stated that water encroachment in the "G" and Keyes reservoirs was not contemplated when the Boehm Field was designed for storage use and that a greater than actual quantity of gas in place was indicated because the well pressures were influenced by water pressure rather than solely gas pressure in the reservoirs. Petitioner states that the current data indicate the gas in place in 1973 was overestimated by some 2,250,000 Mcf which is comprised of overestimates of 500,000 Mcf in the "G" sand and 1,750,000 Mcf in the Keyes sand. The estimate of the gas-in-place volume has been revised from 2,000,000 Mcf to 1,500,000 Mcf in the "G" sand and from 6,250,000 Mcf to 4,500,000 Mcf in the Keyes sand, making a total of 6,000,000 Mcf of gas in place when Petitioner assumed control of the field in 1973.

Pursuant to the Commission's order of August 29, 1973, Petitioner was authorized a 4 year construction program terminating December 31, 1976. Petitioner requests a one-year time extension to December 31, 1977, in order to complete all necessary construction. Construction work yet to be completed includes the two observation wells and miscellaneous residual construction, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 23, 1977 file with the Federal Power 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.77-13565 Filed 5-11-77;8:45 am]

[Docket No. ER77-321]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

MAY 5, 1977.

Take notice that on April 25, 1977, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated November 1, 1976 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Braintree Electric Light Department (BELD).

CL&P states that the Transmission Agreement provides for a transmission service to BELD during the period from November 1, 1976 to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which BELD is entitled to receive.

CL&P staes that BELD did not notify CL&P of its need for transmission service over the NU system until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date.

CL&P therefore requests that in order to permit BELD to receive its Vermont Yankee purchase over the NU system and to allow CL&P, HELCO and WMECO to receive payment for such transmission service, the Commission, pursuant to section 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed to become effective on November 1, 1976.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and BELD, Braintree, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power 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 Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 13, 1977. 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 proceedings. 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.77-13564 Filed 5-11-77;8:45 am]

[Docket No. RP72-157 (PGA77-5a)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

MAY 5, 1977.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on April 14, 1977 tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 in compliance with a Commission letter dated April 1, 1977 conditionally accepting the April 1, 1977 rates as filed on March 3, 1977 subject to a downward adjustment to reflect the proper supplier rates of Texas Eastern Transmission Corporation (Texas Eastern).

Consolidated states that this revision to the April 1, 1977 rates to reflect the Texas Eastern April 1, 1977 rates will generate an additional decrease of approximately $3.5 million annually in jurisdictional revenues. The total proposed rate decrease as reflected in the April 1 rates will be approximately $7.1 million annually.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

All persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. 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.77-13545 Filed 5-11-77;8:45 am]

[Docket No. ER77-328]

EL PASO ELECTRIC CO.

Filing of Amendment to Interconnection Agreement

MAY 5, 1977.

Take notice that El Paso Electric Company (El Paso) on April 28, 1977 tendered for filing a Supplement to its Rate Schedule No. 16, to amend the terms of the Interconnection Agreement between El Paso Electric and Public Service Company of New Mexico (PNM) dated July 19, 1966, and to amend Service Schedules A and B of that Interconnection Agreement. El Paso indicates that this Supplement was executed on April 15, 1977 and that Copies of the filings were served upon PNM and the New Mexico Public Service Commission.

El Paso further indicates that this Supplement constitutes a normal filing to reflect the negotiation of additional provisions of the Rate Schedule by the parties thereto, including an agreement to permit application for a unilateral rate increase by either party, and a redesignation of units to be made available by El Paso for delivery of contingent Contract Demand under the Agreement.

El Paso requests a waiver of the Commission's notice requirement to allow the Suplement to become effective as of April 28, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. 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.77-13543 Filed 5-11-77;8:45 am]

[Docket No. CP76-425]

EL PASO NATURAL GAS CO.

Petition to Amend

MAY 5, 1977.

Take notice that on April 26, 1977, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP76-425 a petition to amend the Commission's order of January 19, 1977 (57 FPC—), issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the retention in place of Petitioner's existing Gomez Exchange tap and related pipeline facilities located in Pecos County, Texas, as an emergency interconnection with Northern Natural Gas Company (Northern), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the Commission's order dated January 19, 1977, issued in the instant docket, Petitioner was authorized to abandon a tap facility, consisting of a 12-inch O.D. tap and side-gate valve, located on Petitioner's interstate system in Pecos County, Texas, and the transportation and delivery of up to 50,000 Mcf per day of natural gas, on an exchange basis, between Petitioner and Northern. Petitioner states that the Gomez Exchange Tap located on Applicant's 16-inch O.D. Gomez-Waha looped pipeline in Pecos County, Texas, was to be abandoned in place inasmuch as Northern had not delivered volumes of gas to Petitioner since August 31, 1973. Northern's Gomez-treating plant processed sufficient capacity to treat all of the raw gas volumes available to Northern from the Gomez field since that time it is said.

Applicant asserts that in the event that an emergency condition should occur, the immediate operational availability of the existing interconnecting facilities would provide an expeditious means of preventing a loss of gas service and possible harm to Petitioner's and Northern's interstate customers as well as provide a means by which deliveries may be made to accommodate the needs of other pipeline companies entering into arrangements with Northern or Petitioner. Petitioner and Northern, therefore, propose to retain in place the existing Gomez Exchange tap and related pipeline facilities for use as an emergency interconnection between Petitioner's and Northern's facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 27, 1977, file with the Federal Power 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 pro-

testants 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.77-13566 Filed 5-11-77;8:45 am]

[Docket No. CP77-352]

GRAND BAY CO.

Application

MAY 5, 1977.

Take notice that on April 21, 1977, Grand Bay Company (Applicant), Saratoga Building, 212 Loyola Avenue, New Orleans, Louisiana 70112, filed an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities, all as more fully set forth in the application which is on file and open to public inspection.

Applicant is seeking authorization to install or have installed, and to operate and maintain or cause to be operated and maintained, certain compression facilities situated in Section 55, Township 20 South, Range 18 East, Plaquemines Parish, Louisiana.

Applicant states that the producers of the natural gas to be compressed by the facilities, for which Commission authorization is herein requested, have indicated to Applicant that said natural gas is low pressure oil well gas and absent of sufficient compression to enable it to enter the interstate pipeline facilities of Mid Louisiana Gas Company, Southern Natural Gas Company and United Gas Pipe Line Company, and into the gathering facilities of Gulf Oil Corporation, and that said gas would otherwise have to be flared or disposed of in some different manner. Applicant has also been advised that absent the installation of the facilities, for which authority is herein requested, approximately 13,505,000 Mcf of gas during the first year would be unavailable to the interstate market. The installation and operation of the compression facilities will make said gas available for transportation for the account of Mid Louisiana Gas Company, Southern Natural Gas Company, United Gas Pipe Line Company and Texas Eastern Transmission Corporation.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 27, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on 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.77-13567 Filed 5-11-77;8:45 am]

[Docket No. RI77-37]

GREAT SOUTHERN OIL & GAS CO., INC.

Amended Application for Special Relief

MAY 6, 1977.

Take notice that on May 2, 1977, Great Southern Oil & Gas Company, Inc. (Petitioner), P.O. Box 52957, OCS, Lafayette, Louisiana, 70505, filed an amended application in the above-captioned docket which amends its application for special relief filed February 23, 1977,[1] Petitioner requests a price of $1.2299 per Mcf in its amended application for gas sold to Columbia Gas Transmission Corporation from acreage in the West Gueydan Field, Vermilion, whereas in its original application Petitioner had not specified a price for the subject sale.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party 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.77-13557 Filed 5-11-77;8:45 am]

[1] Notice issued March 10, 1977. Published in the FEDERAL REGISTER.

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Filing of Settlement Agreement

MAY 5, 1977.

Take notice that Gulf State Utilities (Gulf States) on April 29, 1977, filed a settlement agreement between Gulf States and Sam Rayburn Dam Electric Cooperative Inc. (Sam Rayburn), dated December 30, 1976. Gulf States asserts that inadvertedly, the settlement agreement was not attached to a joint motion of Gulf States and Sam Rayburn to approve the settlement agreement filed on April 22.

In the joint motion, Gulf States indicates that the settlement agreement provides for an extension of the existing contract, which had been terminated by Gulf States, effective November 1, 1978 for an additional two years until October 31, 1980. Gulf States further indicates that the settlement agreement establishes rates for base usage, which is the level of service rendered for each billing month from July, 1975 through June, 1976, and establishes rates for growth usage, which is usage in excess of base usage beginning with the billing month of July, 1976.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power 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 May 20, 1977. 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.77-13544 Filed 5-11-77;8:45 am]

[Docket No. ER77-332]

INDIANA & MICHIGAN ELECTRIC CO.

Changes in Rates and Charges

MAY 5, 1977.

Take notice that American Electric Power Service Corporation (AEP) on April 29, 1977, tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company (Indiana Company), Modification No. 4 dated May 1, 1977 to the Interconnection Agreement dated February 21, 1964, between Indiana & Michigan Electric Company and Public Service Company of Indiana, Inc., designated Indiana Company Rate Schedule FPC No. 24.

AEP indicates that Section 1 of modification No. 4 provides for an increase in the demand charge for Short Term Power from $0.50 to $0.60 per kilowatt per week and Section 3 provides for an

increase in the demand charge for Limited Term Power from $2.75 to $3.25 per kilowatt per month. Section 2 of Modification No. 4 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.125 per kilowatt per week to $0.15 per kilowatt per week and Section 4 provides for an increase in the transmission charge for third party Limited Term transactions from $0.55 per kilowatt per month to $0.65 per kilowatt per month. AEP also indicates that Section 5 of Modification No. 4 provides for an increase in the minimum energy charge for Emergency Service from 17.5 mills to three $0.03 cents per kilowatt-hour. AEP requests that all of the aforementioned Schedules proposed become effective June 1, 1977. AEP states that since the use of Short Term Power, Limited Term Power and Emergency Service cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification.

Copies of the filing were served upon Public Service Company of Indiana, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 20, 1977. 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.77-13547 Filed 5-11-77;8:45 am]

[Docket No. E-7453]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Application

MAY 5, 1977.

Take notice that on April 19, 1977, Iowa-Illinois Gas and Electric Company (Applicant) of Davenport, Iowa, filed a seventh supplemental application seeking authority pursuant to Section 204 of the Federal Power Act to extend to no later than June 30, 1978, the date of issuance and to no later than June 30, 1979, the final maturity date of notes authorized to be issued.

Applicant is incorporated under the laws of the State of Illinois with its principal business office at Davenport, Iowa, and is engaged in the electric and gas utility businesses within the State of Iowa and the State of Illinois.

The notes are to be issued from time to time to banking institutions and/or sold as commercial paper to direct purchasers or through commercial paper dealers.

Notes to banking institutions will be issued in accordance with various informal lines of credit agreements. The notes are to have maturities of up to one year from their dates and in any event on or before June 30, 1979, and are to have an interest cost to the Company not exceeding that charged on prime loans of lending institutions at the time of issuance.

Commercial paper will be issued as unsecured promissory notes and, in most cases, sold through established commercial paper dealers. In some cases commercial paper may be placed directly. Commercial paper notes are to have maturities of not more than 270 days from their dates and in any event on or before June 30, 1979, and the interest rate will be dependent upon the terms of the notes and money market conditions at the time of issuance.

The proceeds from the issuance of notes will be added to working capital for ultimate application toward the cost of gross additions to utility plant.

Any person desiring to be heard or to make any protest with reference to the application should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13568 Filed 5-11-77;8:45 am]

[Docket No. CI77-427]

LADD PETROLEUM CORP.

Application for Transportation of Natural Gas

MAY 5, 1977.

Take notice that on April 25, 1977, Ladd Petroleum Corporation (Ladd), filed in Docket No. CI77-427, an application pursuant to Section 7 of the Natural Gas Act, covering the proposed transportation of natural gas for Northern Natural Gas Company (Northern Natural) from Block 291, Ship Shoal, South Addition Area, to Block 207, Ship Shoal Area, Offshore Louisiana, all as more fully set forth in its application on file with the Commission which is open to public inspection.

Ladd requests authority to transport natural gas owned by Northern Natural through an existing oil pipeline from Block 291, Ship Shoal South Addition Area, Offshore Louisiana, to Block 207, Ship Shoal Area, Offshore Louisiana. The transportation service agreement between Ladd and Northern Natural provides for the payment by Northern Natural to Ladd of 4.5 cents per Mcf at 15.025 psia.

Ladd is solely an independent producer apart from this project. Ladd requests that the Commission exercise its jurisdiction over this project so as not to jeopardize Ladd's otherwise independent producer status.

Any person desiring to be heard or to make any protest with reference to said appication, on or before May 27, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Fedeal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on 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 Commision 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.77-13569 Filed 5-11-77;8:45 am]

[Docket No. RP77-63]

MONTANA-DAKOTA UTILITIES CO.

Proposed Change in Rates

MAY 6, 1977.

Take notice that on April 29, 1977, Montana-Dakota Utilties Co., ("MDU") filed proposed increased rates to its jurisdictional customers, Wyoming Gas Company, Byron Gas Service, and Northern Gas Company ("Northern Gas"). MDU also proposed certain changes in its Purchased Gas Cost Adjustment Provision designed to reflect the special nature of the service rendered to Northern Gas. The proposed effective date is July 1, 1977.

The increased revenues from the rates as proposed would amount to $269,392 annually.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13552 Filed 5-11-77;8:45 am]

[Docket No. ER76-848]

MONTANA POWER CO.

Order Accepting Tariff for Filing and Denying Request for Waiver

MAY 6, 1977.

On August 9, 1976, Montana Power Company (Montana) submitted for filing as an initial rate schedule a proposed tariff providing for the sale of various types of non-firm energy to any electric utility contracting for such service.[1] Montana completed its filing by submittal of additional information in a letter filed March 14, 1977. The tariff provides that the availability of such energy will be determined solely by Montana, and the rate for energy sold will depend upon the resource from which such energy is generated. The tariff alternatively provides for the supply of non-firm energy on a split-the-savings, exchange, or provisional[2] basis. Montana requested waiver of the Commission's notice requirements and an effective date of August 6, 1976.

Montana states that the tariff was formulated to expedite non-firm energy transactions by providing a vehicle for such transactions on a continuing basis.

Montana also states that the split-the-savings rate contained in the tariff is the most equitable costing method for the sale of non-firm energy, but because some utilities do not accept split-the-savings as a proper costing method, the individual rates based on generating resource were made available under the tariff. Montana anticipates that the separate rates will also be employed for sales where its share of the split-the-savings rate would be so small that Montana would not be willing to risk an energy sale, but the individual rate would be advantageous to the company and still be low enough to provide a cost savings to the purchaser.

Public Notice of the filing was issued on August 19, 1976 with comments, protests, or petitions to intervene due on or before August 27, 1976. No responses were received.

Under Montana's proposed tariff, the rate for energy from a non-controllable hydro source[3] will be 3.5 mills/kwh during the period September 1–March 31 and 3.0 mills/kwh during the period April 1–August 31. The rate for energy from a controllable hydro source will be its replacement cost.

If the energy sold from a controllable hydro source is replaced by Montana's coal fired thermal units then the price for such energy is subject to negotiation by Montana and the buyer under one of two methods. One method provides that the rate shall be the incremental production cost plus a portion, not to exceed 50% of the allocable investment cost and fixed operation and maintenance costs (exclusive of fuel costs) associated with the unit(s) from which such energy is provided. The other method calls for a split-the-savings rate based on Montana's incremental production cost (defined as including a portion of fixed costs) and the purchaser's decremental cost.

If the energy sold from a controllable hydro source is replaced by purchased power the rate is to be based on the cost of that purchase plus 15% if the energy is delivered from a firm power purchase and at cost plus 10% or a 1 mill/kwh adder, whichever is lower, if such energy is delivered from a surplus power purchase.

The Commission notes that while the tariff filed provides the framework and mechanism for the establishment of rates, the level of charges to be assessed will not in many cases be known until such time as individual sales for non-firm energy are arranged. In the sale of controllable hydro, for example, the rate design methodology and rate level has not been prescribed under the tariff but rather is negotiable and may be based on one or two pricing principles, split-the-savings or incremental cost of production plus a portion of allocable fixed costs. Under these circumstances, the rate to be charged can fall anywhere within a wide price range dependent upon the outcome of negotiations between buyer and seller. Thus, the rate and its relationship to cost cannot be ascertained at this time. Accordingly, to permit Commission examination and review of the rates charged we shall require Montana Power to file a service agreement within thirty days of its execution, covering each sale under the subject tariff accompanied by appropriate cost support and all other information and data necessary to show how the rate was derived.

Montana's filing should be accepted for filing. The Commission's review of the filing indicates that good cause has not been shown for waiver of the Commission's notice requirements. Accordingly, the proposed tariff should be accepted for filing and become effective April 13, 1977, 30 days after completion of the filing.

The Commission reserves the right to suspend and make subject to refund such rates as may be filed pursuant to the subject tariff pending completion of any review or investigation as may be ordered.

The Commission finds: (1) Montana's proposed tariff should be accepted for filing to become effective April 13, 1977.

(2) Good cause does not exist to grant Montana's request for waiver of the Commission's notice requirements.

The Commission orders: (A) Montana's proposed tariff is hereby accepted for filing to become effective April 13, 1977, 30 days after completion of the filing.

(B) Montana's request for waiver of the Commission's notice requirement is hereby denied.

(C) Montana Power shall file a service agreement within thirty days of its execution covering each sale under the subject tariff accompanied by appropriate cost support and all other information and data necessary to show how the rate was derived.

(D) The Commission reserves the right to suspend and make subject to refund such rates as may be filed pursuant to the subject tariff pending completion of any review or investigation as may be ordered.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER and shall serve a copy thereof upon the wholesale customers of Montana.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13561 Filed 5-11-77;8:45 am]

[Docket No. RP74-14 and RP74-34 (PGA77-2)]

MOUNTAIN FUEL RESOURCES, INC.

Tariff Sheet Filing

MAY 5, 1977.

Take notice that on April 15, 1977, Mountain Fuel Resources, Inc., pursuant to Section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Third Revised Sheet No. 7 to its FPC Gas Rate Schedule No. 1. Resources states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provisions authorized by the Commission's order issued November 28, 1973 in Docket Nos. RP74-14 and RP74-34. More specifically, the tariff sheet reflects a net increase over that currently being collected of 0.65 cents per Mcf to be effective June 1, 1977.

Any person desiring to be heard and to make any protest with reference to said filing should on or before May 24,

[1] Montana is a member of the seven party Revised Intercompany Pool Agreement (ICP-R). Pursuant to Part III(2) of that agreement, member parties agree to file from time to time with the Commission, various service schedules specifying the rates and conditions under which various classifications of power and energy will be made available to the member parties. The other six parties are: Pacific Power & Light Company, Portland General Electric Company, Idaho Power Company, Utah Power & Light Company, Washington Water Power Company, and Puget Sound Power & Light Company.

[2] Provisional energy is defined as non-firm energy made available by Montana which may require the later return to Montana of either a part or all of the energy sold in order to offset the effect of the occurrence of an event that was considered improbable at the time of the original negotiations.

[3] Noncontrollable hydro must be currently generated or spilled whereas controllable hydro can be stored or otherwise exchanged for future use.

1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Resources tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13546 Filed 5-11-77;8:45 am]

[Docket No. CP77-359]

MOUNTAIN FUEL SUPPLY CO.

Application

MAY 5, 1977.

Take notice that on April 27, 1977, Mountain Fuel Supply Company (Applicant), P.O. Box 11368, Salt Lake City, Utah 84139, filed in Docket No. CP77-359 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 554 Mcf of natural gas per day with Northwest pursuant to a gas poration (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport and exchange up to 554 Mcf of natural gas per day with Northwest pursuant to a gas purchase, transportation, and exchange agreement dated March 9, 1977, between Applicant and Northwest. Applicant states that it has a supply of natural gas located in southwestern Wyoming which it desires to have transported or delivered by displacement to its existing facilities.

Pursuant to the gas purchase, transportation, and exchange agreement dated March 9, 1977, between Applicant and Northwest, Applicant would make the gas to be transported available to Northwest at the outlet of the Wilson Ranch #2 wellhead in Lincoln County, Wyoming, and Northwest would redeliver by displacement the propose volumes of gas at an existing point of interconnection of the facilities of Northwest and Applicant near Granger, Wyoming.

Applicant proposes to pay Northwest 18.2 cents per Mcf for the transportation and exchange service proposed herein.

Applicant indicates that it would sell to Northwest up to 25 percent of the volumes of gas delivered pursuant to the exchange agreement, and that the price for the gas sold to Northwest would be equal to the price paid by Applicant.

Applicant asserts that it would use the subject gas to augment its diminishing supply from older sources, which would help maintain the deliverability of natural gas to existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on 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 proivded for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13571 Filed 5-11-77;8:45 am]

[Docket No. CP73-43]

MOUNTAIN FUEL SUPPLY CO.

Petition To Amend

MAY 5, 1977.

Take notice that on April 21, 1977, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84239, filed in Docket No. CP73-43 a petition to amend the Commission's order of November 17, 1972 (48 FPC 1096), as amended February 10, 1977 (57 FPC ——), issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of additional facilities for the further development of the Leroy Storage Field in Uinta County, Wyoming, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to the Commission's order of November 17, 1972, as amended February 10, 1977, Petitioner was authorized to construct and operate certain natural gas facilities necessary to develop the Leroy Storage Field in Uinta County, Wyoming.

Petitioner proposes herein to drill and operate one observation well and two injection-withdrawal wells and to construct and operate the necessary laterals, dehydration and appurtenant facilities required for storage operation in Uinta County, Wyoming. Approximately 6,960,000 Mcf of gas was in storage at Leroy at the beginning of the 1976-77 withdrawal season.

Petitioner states that since beginning development of the Leroy Storage Field, it has identified a small reverse fault in the storage field running in a generally northeast-southwest direction through Sec. 33, R.117W., T.16N., and displacement across the fault is indicated to be about 80 feet with the northern block of the reservoir being structurally higher than the southern block. Petitioner further states that displacement across the fault has not been great enough to offset the storage interval in the two fault blocks which interval exhibits a general thickness of approximately 200 feet, and definite communication exists between the northern and southern fault blocks in the reservoir. Well No. 8, the observation well to the south of the fault, shows identical pressure changes with those wells to the north of the fault, it is said.

Petitioner states that the volume of the southern block of the storage reservoir has been taken into account in its previous reservoir volume calculation, however, Petitioner is now of the opinion that optimum utilization of the reservoir dictates the drilling and completing of two injection-withdrawal wells on the structural high of the southern reservoir block. It is stated that such wells would serve two primary purposes: (1) information from these wells would give Petitioner needed control for the more precise definition of the southern extension of the storage reservoir; and, (2) Petitioner believes that there is a high probability that the storage gas bubble extends well down into the reservoir block in which event the two proposed wells would add to field deliverability, decrease field cushion gas requirements, and increase field working gas.

Petitioner indicates that down-dip well control moving in an easterly direction away from the principal fault zone is lacking. Petitioner states it believes that information obtained through the drilling and maintenance of an observation well in the NW¼ NE¼ of Sec. 28, R.117W., T.16N. would add greatly to the precise definition of the storage zone and its operating characteristics. Petitioner proposes that such well be drilled and operated as an observation well only.

Petitioner states that its development of the Leroy Field has reached the point where an operating advantage can be obtained through the hooking up and placing in an injection-withdrawal status of Well Nos. 2 and 8, and that this would immediately increase the injection potential in the field; and as the storage bubble grows down to these wells, the field's deliverability would incerase the field's overall working/cushion gas ration.

Petitioner states that the cost of the proposed development work is estimated at $2,804,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 27, 1977, file with the Federal Power 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 proceding. 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.77-13570 Filed 5-11-77;8:45 am]

[Docket No. RP77-57]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

MAY 6, 1977.

Take notice that National Fuel Gas Supply Corporation ("National"), on April 29, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by approximately $5,449,000, based on the 12-month period ended December 31, 1976, as adjusted. The proposed effective date is June 1, 1977.

National states that the increased rates are required to recoup increased costs incurred in operating and maintaining its system, including but not limited to, increased cost of capital, increased depreciation, increased wages, and increased taxes and gas costs. The rates proposed reflect an overall rate of return of 10.8%. The filing also reflects a continuing decline in National's gas supply with a consequent reduction in annual sales volumes. Further, National states that the proposed rates do not inclued the appropriate surcharge as provided by its purchased gas adjustment clause. At such time as the increased rates are to become effective National will make the appropriate filing to reflect the applicable surcharge adjustment in effect at that time.

National states that it has excluded from this filing costs applicable to facilities to be sold to National Gas Storage Corporation pursuant to the joint application of Storage and National which is the subject of Docket No. CP76-492.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, and Pennsylvania.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 852 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. 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 77-13559 Filed 5-11-77;8:45 am]

[Docket No. ER77-326]

NEPOOL EXECUTIVE COMMITTEE

Filing of Amendment to the New England Power Pool Agreement

MAY 5, 1977.

Take notice that on April 28, 1977, the NEPOOL Executive Committee tendered for filing an Agreement Amending the NEPOOL Power Pool Agreement (Amendment), dated December 31, 1976, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

The Amendment was filed by the NEPOOL participant systems in compliance with orders of the Commission Docket No. E-7690, issued September 10, 1976, and November 5, 1976. The Amendment deletes Section 9.5 of the NEPOOL Agreement and suspends Section 9.4(d) of the NEPOOL Agreement during the pendency of the appeal taken by the NEPOOL Executive Committee to the United States Court of Appeals for the District of Columbia Circuit (and ninety days thereafter) from the order of the Commission requiring modification of Section 9.4(d).

The NEPOOL Executive Committee requests a waiver of the Commission's notice requirements to allow the Amendment to become effective as of February 3, 1977.

Any person desiring to be heard or to make any protest with reference to the Amendment should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13539 Filed 5-11-77;8:45 am]

[Docket No. CP77-173]

NORTHERN NATURAL GAS CO., OPERATING AS PEOPLES NATURAL GAS DIVISION

Amendment to Application

MAY 6, 1977.

Take notice that on April 27, 1977, Northern Natural Gas Company, operating as Peoples Natural Gas Division (Applicant), 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. CP77-173 an amendment to their application filed in said docket pursuant to Section 7 of the Natural Gas Act so as to authorize the construction and operation of a 194 horsepower compressor facility at a site to be designated Kendall North Compressor Staton, at an existing point of delivery to Colorado Interstate Gas Company (CIG) in Kearny County, Kansas, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

In its initial application filed in the instant docket, Applicant proposed to abandon and remove the facilities of its Syracuse Compressor Station located in Hamilton County, Kansas, consisting of one 300 horsepower unit; one 240 horsepower compressor unit and to construct and operate two comoressor unit additions totaling 1,400 horsepower at its Kendall Compressor Station located in Kearny County, Kansas.

Applicant states that it is presently authorized to deliver up to 7,500 Mcf of natural gas per day to CIG pursuant to the terms of a gas purchase and exchange agreement dated April 20, 1976, and that it delivers volumes of gas to CIG at two points of interconnection on CIG's gathering system which are located in Kearny County, Kansas. Applicant further states that under the terms of the said agreement it is obligated to deliver a combined volume of not less than 3,000 Mcf of natural gas per day to CIG through the delivery points.

Under present operating conditions, free-flow delivery capability of the two delivery points is marginal with regard to the minimum delivery requirement, it is said. Consequently, Applicant proposes to install one 194 horsepower compressor unit at the site to be designated Kendall North Compressor Station at a cost of $68,710, that would be financed from cash on hand.

Applicant asserts that the additional compressor horsepower at Kendall Compressor Station originally proposed in this docket and the installation of the compressor facilities of Kendall North Compressor Station proposed herein are vital to Applicant's Kendall Area system capability during the upcoming irrigation season.

Any person desiring to be heard or to make any protest with reference to said

amendment should on or before May 31, 1977, file with the Federal Power 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. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13558 Filed 5-11-77;8:45 am]

[Docket No. CP77-356]

PANHANDLE EASTERN PIPE LINE CO.

Application

MAY 5, 1977.

Take notice that on April 22, 1977, Panhandle Eastern Pipe Line Company (Applicant), 3000 Bissonnet Avenue, Houston, Texas 77001, and 344 Broadway, Kansas City, Missouri 64141, filed in Docket No. CP77-356 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation on an interruptible basis of up to 4,000 Mcf of natural gas per day for Hayes-Albion Corporation (Hayes-Albion), a direct industrial customer of Applicant, for use in Hayes-Albion's Albion, Michigan, manufacturing plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport said volumes of gas pursuant to an industrial gas contract dated October 1, 1975, between Applicant and Hayes-Albion, for a term of 2 years. Applicant states that it would deliver the subject gas to Albion-Hayes through the pipeline and gas distribution facilities of Southeastern Michigan Gas Company (SEMG). Applicant indicates that Hayes-Albion has entered into an agreement with SEMG for the transportation of the gas from the point of interconnection of Applicant's pipeline facilities and the facilities of SEMG located near Albion, Michigan, and that SEMG would transport and deliver the said volumes of gas to Hayes-Albion at the outlet side of SEMG's measuring station at the point of connection between the facilities of SEMG and Hayes-Albion in Albion, Michigan.

Applicant asserts that Hayes-Albion's Albion, Michigan, plant is a principal employer in the city of Albion and is a major manufacturer of malleable castings for the auto industry, and that its principal products are differential cases and carriers, front wheel hubs and transmission universal joint yokes.

Pursuant to the industrial gas contracts dated October 1, 1975, as amended July 1, 1976, Applicant proposes to charge Hayes-Albion a base price of 80 cents per Mcf for the purchase of the volumes of gas to be transported. Applicant further states that it would have the right to curtail or interrupt all or any part of the deliveries of gas to Hayes-Albion when, in Applicant's judgment, such gas is needed to meet the requirements of Applicant's customers receiving service, either directly or indirectly, from Applicant under classifications contemplating an uninterruptible or partially uninterruptible supply of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on 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.77-13572 Filed 5-11-77;8:45 am]

[Docket Nos. CI77-373 et al.]

PINTO, INC. ET AL.

Order Further Consolidating Proceedings, Setting Consolidated Proceedings for Hearing, Setting Notice Period and Granting Interventions

Pinto, Inc., CI77-373; Ecee, Inc., CI77-372; TBP Offshore Co., CI77-409; Mesa Offshore Co., RI77-13; Pennzoil Offshore Gas, Operators Inc., CI76-806.

MAY 4, 1977.

On March 29, 1977, Pinto, Inc. (Pinto) and Ecee, Inc. (Ecee) each filed applications for certificates of public convenience and necessity and each requested special rate relief pursuant to Section 2.56a(g) of the Commission's General Policy and Interpretations (18 CFR § 2.56a(g)), so that each applicant would be authorized to collect a rate substantially in excess of the applicable nationwide rate set in Opinion Nos. 770 and 770-A. Under the relevant nationwide rate, Pinto and Ecee would be entitled to collect $1.4785/Mcf at 15.025 psia, excluding adjustments and escalations.

Pinto, in Docket No. CI77-373, requested a special relief rate of $4.0233/Mcf for its interests in the gas under West Cameron Block 586, Offshore Louisiana which it estimated to total 939 MMcf in reserves. Pinto estimated that its initial sales volumes from this block would be about 28,800 Mcf per month (960 Mcf/D).

Ecee, in Docket No. CI77-372, requested a special relief rate of $4.0217/Mcf for its interests in gas under West Cameron Block 586. It estimated its reserves to equal 512 MMcf with its initial sales volumes to the pipeline running approximately 15,700 Mcf per month (523 Mcf/D).

Both Pinto and Ecee signed individual contracts, dated March 1, 1977, to sell the subject gas to Sea Robin Pipeline Company (Sea Robin). Article IV of each, substantially identical, contract sets forth 5 pricing provisions: First, a specific base price is agreed upon of $1.75/Mcf for the first year of deliveries with a fixed 2 cents/Mcf escalation each year thereafter for the term of the contract. Second, the parties agreed that if a area rate in the Offshore Louisiana area during the contract term was higher than "first," above, the area rate would become the base price. Third, the parties agreed upon a "deregulation clause" which essentially sets the price along the lines of a "favored nations" formula, in the event the Commission, or its successor authority no longer has or asserts jurisdiction over the sale price. The buyer has a right to refuse to pay the price set by "third". The fourth provision allows the seller to collect a price higher than "first" or "second", above, if authorized by the Commission pursuant to optional procedure or special relief. Fifth, seller is reimbursed for any excess royalty payments incurred in the premises.

On April 14, 1977, TBP Offshore Company (TBP), in Docket No. RI77-409, filed for a certificate, pursuant to Section 7 of the Natural Gas Act (Act), and requested special rate relief in accordance with Section 2.56a(g) of the Regulations. Under the terms of Opinion No. 770 and 770-A, TBP would be entitled to a rate of $1.4785/Mcf at 15.025 psia,

excluding adjustments and escalations, for its gas in West Cameron Block 586. TBP requested a special relief rate of $4.0265 for the sale of its reserves, estimated by the company to equal 256 MMcf, to Sea Robin, in accordance with their contract dated March 29 ,1977. TBP estimated that its initial sales volumes to Sea Robin would equal about 7,850 Mcf per month (260 Mcf/D). The price provisions in its March 29, 1977 contract with Sea Robin parallel those pricing provisions in the Pinto and Ecee contracts mentioned above.

Pinto, Ecee, and TBP individually retain the right to have the gas processed before or after delivery to Sea Robin, and each retains all rights, title and interest in any products resulting from such processing. Each applicant agreed to pay Sea Robin at least .02 cents per Mcf per mile of transportation from the delivery points to the processing plant for any plant volume reduction.

According to the three contracts, the sellers herein dedicate to the sale only such Block 586 gas as will be produced from depths located above one hundred (100) feet below the stratigraphic equivalent of the induction electric log total depth of 10,390 feet of the OCS–G–2436 Well No. 1.

Staff has determined that these three applicants acquired their interests in Block 486 through assignment from Texas Production Company, one of Block 586's bidders and original working interest holders. As of September 3, 1976, Pinto's working interest in Block 586 equalled 3.67%, Ecee's amounted to 2.0%, and TBP's was 1%. Staff has found that Pinto was assigned a 3% working interest in Vermilion Block 228, Offshore Louisiana, which it obtained on May 1, 1971, from Texas Production Company. Although, as of February 3, 1977, Pinto still owned 3% of Vermilion 228, its application herein covered just its interest in West Cameron Block 586. To date, Pinto apparently has not filed for a certificate authorizing sales from Vermilion 228. Vermilion 228 is one of the four blocks included in Pennzoil Offshore Gas Operators, Inc.'s (POGO) application for certification in Docket No. CI76–806 with which the instant three applications are being consolidated by this order. Pinto and Ecee respectively have not, therefore, each included into one project all of their respective individual interests in the Federal Domain. Pinto, Ecee, and TBP shall each explain fully why this block was included in its present application, and other, (if any), as yet uncertificated blocks it owns were not so included.

A review of Commission files shows that Pinto and Ecee are making sales to Sea Robin from their interests in East Cameron Block 270, pursuant to certificates granted respectively in Docket Nos. CI73–455 and CI73–456. Pinto is selling gas to United from West Cameron Block 587 under a certificate granted in Docket No. CI75–436. It appears TBP is not making any sales in interstate commerce. TBP filed an application for a small producer certificate in Docket No. CS76–396, on January 9, 1976, as amended April 12, 1976. The Commission denied TBP's application on June 10, 1976, by an order issued in Docket No. CS66–57, *et al.*, because, *inter alia*, TBP and Mesa Petroleum Company were affiliated companies.

In an order dated March 11, 1977, in Docket No. CI76–806, the Commission set for hearing POGO's application for a certificate and petition for special relief for its gas interests in West Cameron Block 586, Vermilion Block 228, Eugene Island Block 256 and West Cameron Block 572.

In a March 28, 1977 order, the Commission consolidated the application of Mesa Offshore Company (Mesa) for certificate authorization and request for special relief (concerning Vermilion Block 228 and Eugene Island Block 256) with POGO's application mentioned above.

While the three applicants herein did not request that their filings be consolidated with those of POGO's and Mesa's, expedition of the Commission's business requires that these 5 filings be consolidated into a single proceeding as they involve common issues of fact and law. Pinto's, Ecee's, and TBP's applications involve their interests in West Cameron Block 586, one of the blocks involved in POGO's application. And all 5 applications request special rate relief for reserves which have not yet flowed in interstate commerce.

Mobil Oil Corporation (Mobil), one of the winning bidders, along with POGO, Cities Service, and Texas Production Company, for West Cameron Block 586 in the June 19, 1973 Outer Continental Shelf Lease Sale, filed, on April 12, 1976, in Docket No. CI76–464 for a certificate to initiate sales from Block 586 to Natural Gas Pipeline Company of America (Natural) at the nationwide rate established in Opinion No. 699–H. Mobil's working interest in the block at the time of its filing was 33⅓% whereas Cities Service owned 10%; POGO had 50%; Pinto's was 3¾%; Ecee's equalled 2% and TBP owned 1%. On June 29, 1976, Sea Robin filed an application in Docket No. CP76–418 for authorization to construct and operate a pipeline connecting West Cameron Block 586 to an existing line of Stingray Pipeline Company's (Stingray) located in West Cameron Block 595 and to transport Block 586 gas for itself, United Gas Pipeline Company (United) and Natural. On October 12, 1976, Sea Robin amended its application to add Southern Natural Gas Company (Southern) to the list of companies for which Sea Robin was transporting Block 586 gas. Sea Robin estimated that Block 586 contained 30,688 Bcf of proven reserves.

The Commission granted Mobil a permanent certificate at the nationwide rate by an order issued February 15, 1977, in Docket No. CI76–464. In the same February 15, 1977 order, the Commission issued Sea Robin a certificate in Docket No. CP76–418 to construct and operate the proposed facilities and to transport gas through such facilities for United, Natural and Southern. However, the authorization to construct and operate the facilities was conditioned upon Mobil's acceptance of its certificate, POGO's filing a letter of commitment and the remaining producers' filing of applications or letters of commitment. Sea Robin has agreed to transport 12,100 Mcf/D for Natural, 13,650 Mcf/D for United and 4,550 Mcf/D for Southern on a firm basis.

Cities Service filed on April 20, 1977, in Docket No. CI77–421 for permanent certificate authorization to commence sales of its gas interests in Block 586 to Sea Robin at the nationwide rate established in Opinion Nos. 770 and 770–A.

POGO, on April 28, 1977, filed for a temporary certificate, in Docket No. CI76–806, to authorize commencement of sales of its Block 586 gas to Sea Robin at the nationwide rate as established in Opinion Nos. 770 and 770–A.

In its March 28, 1977 order in Docket Nos. RI77–13 and CI76–806 the Commission set a date of April 12, 1977, on or before which intervenors or those wishing to make protests should make their filings. In accordance with that order, Associated Gas Distributors (AGD) petitioned to intervene in the consolidated proceedings on April 12, 1977. On March 30, 1977, United Municipal Distributors Group (MDG) petitioned to intervene out of time in the original POGO proceeding (Docket No. CI76–806). We will treat MDG's untimely petition in Docket No. CI76–806 as a timely intervention filed in the consolidated proceedings in Docket Nos. CI76–806 and RI77–13 in accordance with Ordering Paragraph (D) of our March 28, 1977 order.[1]

On April 18, 1977, Southern Natural Gas Company (Southern) petitioned to intervene in Docket Nos. CI77–372 and CI77–373 concerning the captioned application of Ecee and Pinto respectively.

An examination of the applications and petitions of Pinto, Ecee, and TBP respecitvely and the data submitted in support thereof raises a question as to whether there is sufficient basis for the Commission to find the proposed rate to be just and reasonable. Therefore, we deem it necessary that a consolidated hearing be held in this matter to determine answers to all of the issues raised in the three instant applications and petitions, together with all the issues raised in the applications and petitions of POGO in Docket No. CI76–806 and Mesa in Docket No. RI77–13.

The Commission finds: (1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

(2) It is necessary and in the public interest that the above-docketed proceedings (CI77–372; CI77–373; CI77–409) be consolidated with that of Pennzoil Offshore Gas Operators, Inc. in Docket No. CI76–806 and that of Mesa Offshore, Inc. in Docket No. RI77–13.

[1] *Order Consolidating Proceedings, Setting Consolidated Proceedings For Hearing, Setting Notice Period*, Docket Nos. RI77–13 and CI76–806, issued March 28, 1977, Ordering Paragraph (D).

(3) It is in the public interest that the interventions of Associated Gas Distributors, United Municipal Distributors Group and Southern Natural Gas Company be granted.

The Commission Order: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter I), a consolidated public hearing in Docket Nos. CI77-372; CI77-373; CI-77-409; CI76-806; and RI77-13 shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington,D.C. 20426, for the purpose of hearing and disposition of the issues in this consolidated proceeding.

(B) The proceedings in Docket Nos. CI77-372; CI77-373; and CI77-409 are hereby and hereafter consolidated for all purposes with the proceedings in Docket Nos. CI76-806 and RI77-13.

(C) A Presiding Administrative Law Judge designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR § 3.5 (d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) Any person desiring to be heard or to make any protest with reference to this consolidated proceeding should, on or before May 20, 1977, file with the Federal Power Commission, at the address stated in Ordering Paragraph (A), a petition to intervene or a protest, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's Rules.

(E) The interventions granted in Ordering Paragraph (G) of the Order Setting Proceeding For Hearing and Granting Interventions, in Docket No. CI76-806, issued March 11, 1977—namely, the Public Service Commission of the State of New York; United Gas Pipeline Company; and Southern Natural Gas Company—are hereby and hereafter granted intervention in this consolidated proceeding under the same terms and conditions stated in the aforementioned Ordering Paragraph (G).

(F) The Associated Gas Distributors and the United Municipal Distributors Group are hereby permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission; *Provided, however*, that the participation of such intervenor shall be limited to matters affecting asserted rights and interests as set forth in its petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that such intervenor might be aggrieved because of any order or orders issued by the Commission in this consolidated proceeding.

(G) Pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure (18 CFR § 1.8), the Presiding Administrative Law Judge is hereby authorized to permit the participation at the pre-hearing conference or hearing of any party that has filed a petition to intervene pursuant to Ordering Paragraph (D), above, that has not been acted upon by the Commission.

(H) Petitioners Pinto, Ecee, and TBP each individually, and any intervenor(s) supporting the individual petitions for special relief shall file their direct testimony and evidence on or before May 25, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this consolidated proceeding. Each Petitioner shall individually submit gas supply and cost data for its interest in West Cameron Block 586. Pinto, Ecee and TBP shall each file records, data and papers showing the date each acquired its interest in Block 586, from whom, and the sum of money paid therefor. Each Petitioner (Pinto, Ecee, and TBP) shall submit records, data, and papers detailing the dates of acquisition; the names of the seller, assignor, or lessor, as the case may be, and the monies spent for each of their other interests in the Federal Domain, Offshore Louisiana. The three Petitioners shall show its percentage of interest in the aforementioned blocks, and if a FPC certificate has been applied for, the relevant docket number(s) and the disposition of the proceeding. For every block each Petitioner owns, if any, for which certification has not been applied, the Petitioner shall fully explain why those block(s) were not included in its instant application. Each Petitioner shall file not only opinion evidence on the costs and gas supply issues, but also sufficient underlying data so that the reasonableness and credibility of the opinion evidence can be weighed by application of traditional evidentiary standards. The aforementioned list of data and evidence is not intended to foreclose data, testimony, or other evidence not specifically enumerated from being brought within this proceeding. All relevant and material evidence shall be admissible.

(I) The Commission Staff shall have the right to examine, and copy where appropriate, the records, accounts and memoranda of Pinto, Ecee, and TBP.

(J) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held in this consolidated proceeding on May 4, 1977, at 10:00 A.M., E.S.T. in a hearing room at the address noted in Ordering Paragraph (A).

(K) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13563 Filed 5-11-77;8:45 am]

[Docket No. RI77-63]

WILLIAM C. RUSSELL

Petition for Special Relief

MAY 5, 1977.

Take notice that on April 18, 1977, William C. Russell (Applicant), 745 Fifth Avenue, New York, New York, 10022, filed a petition for special relief in Docket No. RI77-63 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. 2.76). Applicant requests relief from the nation-wide flowing gas rate for the proposed sale of natural gas to Southern Union Gathering Company from the Basin Dakota Gas Field, San Juan County, New Mexico. Applicant requests a rate of $1.02562 per Mcf. Applicant proposes to do reconditioning work on Lunt No. 62 Well which has been nonproductive since production casing failure in August, 1976.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 27, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party 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.77-13573 Filed 5-11-77;8:45 am]

[Docket No. RP74-6 (Phase II)]

SOUTHERN NATURAL GAS CO.

Certification of Settlement

MAY 5, 1977.

Take notice that on April 25, 1977, Presiding Administrative Law Judge Thomas L. Howe certified to the Commission a proposed stipulation and agreement which would constitute a partial settlement of the issues in Southern Natural Gas Company, Docket No. RP74-6 (Phase II). This settlement would be applicable to the smaller customers on Southern's system.

At a hearing held on April 22, Southern placed into the record a proposed stipulation and agreement and an illustrative exhibit. This stipulation would

permit Southern to waive the penalty provisions of its tariff permanently for takes of gas in excess of curtailment orders by OCD or G schedule customers with Contract Demands or Maximum Delivery Obligations of 16,000 Mcf per day or less than these customers apply for the exemption and certify that the following conditions exist:

1. No additional requirements were added during the November 1, 1976–March 31, 1977 period.

2. The excess gas was needed for firm priority 1, 2 or 3 consumers (or interruptible priority 1, 2 or 3 consumers without alternate fuel capability).

3. The OCD or G customer sold no gas on any day during a month for which relief was requested to consumers in lower curtailment priorities than Southern allocated gas to on such day.

4. All gas supplies available from other sources, including maximum withdrawals from storage and peak shaving, were fully utilized on any day for which relief is sought.

All parties wishing to submit comments on the proposed stipulation and agreement shall file such comments with the Commission within 14 days of the issuance of this notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13541 Filed 5-11-77;8:45 am]

[Docket No. RI77-62]

SOUTHPORT EXPLORATION, INC.

Petition for Special Relief

MAY 6, 1977.

Take notice that on April 21, 1977, Southport Exploration, Inc. (Petitioner), 124 East 4th Street, Suite 200, Tulsa, Oklahoma 74103, filed a petition for special relief in Docket No. RI77-62, pursuant to Commission Order No. 481.

Petitioner seeks authorization to charge $2.00 per Mcf plus adjustments and taxes, and a 1.5 cent per Mcf quarterly increase for gas sold to Texas Gas Transmission Corporation from 5 wells to be drilled in the Operculinoides Four Sand, St. John Field, LaFourche Parish, Louisiana. Petitioner proposes to drill 5 new wells at an approximate cost of $15,871,000 in previously untested formations which lie below presently producing formations. Petitioner states that unless the requested increase from 36.5 cents per Mcf to $2.00 per Mcf plus adjustments, taxes and quarterly increase is granted development and exploration of new wells would be uneconomical.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1977, file with the Federal Power 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 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party 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.77-13560 Filed 5-11-77;8:45 am]

[Docket No. CP72-182]

TEXAS GAS TRANSMISSION CORP.

Proposed Change in FPC Gas Tariff

MAY 6, 1977.

Take notice that on April 26, 1977, Texas Gas Transmission Corporation (Texas Gas), tendered for filing the following revised sheets to its FPC Gas Tariff, Original Volume No. 2:

Second Revised Sheet No. 555-A, Original Sheet No. 555-B, Third Revised Sheet No. 556, and Fourth Revised Sheet No. 558.

Texas Gas states that the subject filing reflects the addition of three points of delivery in its Rate Schedule X-50, an exchange agreement with Transcontinental Gas Pipe Line Corporation (Transco), which was authorized by Commission Order issued April 12, 1977, in Docket No. CP72-182.

The tariff sheets are proposed to become effective April 12, 1977.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 25, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on 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.77-13550 Filed 5-11-77;8:45 am]

[Docket No. CP77-351]

UNITED GAS PIPE LINE CO.

Application

MAY 5, 1977.

Take notice that on April 20, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-351 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon in place certain field pipelines in Terrebonne Parish, Louisiana and to abondon and remove meter and regulating facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the abandonment and removal and abandonment in place of facilities as follows:

1. Abandon in place approximately 2.3 miles of 6-inch field pipeline located in Terrebonne Parish, Louisiana.

2. Abandon in place approximately 0.4 miles of 4-inch field pipeline located in Terrebonne Parish, Louisiana.

3. Abandon and remove meter and regulating facilities located in Terrebonne Parish, Louisiana.

Applicant states that the 6-inch pipeline which it proposes to abandon connects its system to the Southeast Houma Field in Terrebonne Parish. It is stated that the pipeline was installed in 1958, and that the use of this line is no longer required by Applicant since it no longer receives any production from the Southeast Houma Field nor does it expect any deliveries of gas from this field in the future. Applicant indicates that it has three current gas producers contracts with producers in the subject field, and all three producers have notified Applicant that the term of the leases has expired and the wells are not producing.

Applicant further states that the 4-inch field pipeline which it proposes to abandon also connects its system to the Southeast Houma Field, and is no longer being used by Applicant.

Applicant states that it has been advised by a major real estate developer that plans have been made to utilize a portion of the subject Terrebonne Parish area for residential and commercial property development. Since gas has not been purchased by Applicant since the wells have stopped producing, the right-of-way for the applicable lines have lapsed and are no longer in force and effect, it is said. Applicant states that it has been requetsed by the developer to remove its facilities.

Applicant further states that the metering and regulating facilities proposed to be abandoned and removed would be used by Applicant at other locations as required.

Applicant asserts that the lines are no longer essential to its operations and that abandonment would eliminate expenditures for the operation and maintenance of these lines.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Com-

mission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13574 Filed 5-11-77;8:45 am]

[Docket No. ES77-32]

UPPER PENINSULA POWER CO.

Application by Upper Peninsula Power Company for Authorization To Issue Securities Under Section 204(a)

MAY 6, 1977.

Take notice that on April 29, 1977, Upper Peninsula Power Company (Applicant) filed an application with the Federal Power Commission seeking authority, pursuant to Section 204(a) of the Federal Power Act, to issue short-term notes of an aggregate principal amount of up to $9,500,000.

The Applicant is incorporated under the laws of the State of Michigan, with its principal business office at Houghton, Michigan. The Applicant is engaged in the electric utility business in a 4,460 square mile area in the upper peninsula of Michigan with a population of approximately 140,000.

The Applicant has proposed to issue unsecured promissory notes of a principal amount of up to $9,500,000 outstanding at any one time, payable to such bank or banks from which the Applicant may borrow, for periods not exceeding twelve months from the date of original issuance, extension or renewal. The notes will be issued on or before June 30, 1978 and will have a final maturity date not later than June 30, 1979. The interest rate on such notes will not exceed 120% of the prevailing prime commercial rate in effect from time to time. The notes will not be subject to resale to the public.

The proceeds from the sale of the notes will be used, pending permanent financing, to finance the continuation of the Applicant's construction program, and the purchase of fuel supplies through June 30, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. 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.77-13549 Filed 5-11-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 6, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 31, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

NRC requests an extension no change clearance of 10 CFR Part 34, Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations. Pursuant to Part 34 licensees must maintain records of the latest date of calibration of each radiation survey instrument; keep records of leak test results for each sealed source of radioactive material; maintain a record of the quarterly physical inventory of sealed sources; keep a utilization log for each sealed source; maintain records of film badge reports and records of pocket dosimeter readings; and maintain records of radiation surveys. Any leak test of a sealed source which reveals the presence of 0.005 microcurie of removable radiactive material must be reported to the Commission within 5 days. NRC estimates respondents to be 375 licensees holding specific licenses for industrial radiography pursuant to Part 34 and that recordkeeping burden averages approximately 47 hours annually per respondent. Respondent burden for a report of leaking sealed sources averages approximately one-half hour per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-13534 Filed 5-11-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[GSA Order Adm 1095.1A]

ENVIRONMENTAL IMPACT STATEMENTS

Preparation Procedures

Notice is hereby given that the General Services Administration in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) has revised internal procedures for preparing environmental impact statements. The revisions were made primarily to delegate more responsibilities to the regional offices and the Commissioner, Public Buildings Service.

Public comments are not requested as there are no substantive differences from the original ADM 1095.1 which was published for public inspection on April 4, 1975 (40 FR 15131).

Dated: April 27, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

ENVIRONMENTAL CONSIDERATIONS IN DECISIONMAKING

1. *Purpose.*—This order prescribes the uniform procedures to be followed in implementing the laws, Executive orders, and directives concerning all major GSA actions that significantly affect the quality of the human environment, consistent wtih the basic statutory responsibilities governing GSA program operations. This order also provides a basis for the publication, when required, or service and staff office orders and instructions explicitly directed toward the particular functions, activities, and personnel of each organization.

2. *Cancellation.*—ADM 1095.1 is canceled.

3. *Background.*—a. The laws, Executive orders, and directives to be imple-

mented include the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), hereinafter referred to as NEPA; Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality"; section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); Executive Order 11593 of May 13, 1971, entitled "Protection and Enhancement of the Cultural Environment"; GSA Order PBS 1022.1, entitled "Protection of historic properties"; Executive Order 11752 of December 17, 1973, entitled "Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities"; and the Guidelines issued by the Council on Environmental Quality (CEQ) for preparing environmental impact statements, hereinafter referred to as the Guidelines, published in the FEDERAL REGISTER August 1, 1973, 38 F.R. 20550, and amended in the FEDERAL REGISTER on August 7, 1973, 38 F.R. 21265.

b. Section 102 of NEPA directs all Federal agencies to the fullest extent possible (1) to utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment; (2) to identify and develop methods and procedures which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations; (3) to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official which includes to the fullest extent possible the following:

(1) The environmental impact of the proposed action;

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) Alternatives to the proposed action;

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c) Executive Order 11514 effectuates the purpose of NEPA, and the revised Guidelines implement NEPA.

4. *Role of the environmental impact statement process.*—The environmental impact statement process is a means of coordinating active consideration of environmental concerns throughout the GSA planning, action development, and review processes. Environmental enhancement, protection, and restoration shall be regarded as primary responsibilities. Through serious consideration of all reasonable alternatives, adverse environmental effects must be avoided or minimized to the fullest extent possible. The process shall be used to reassess ongoing actions as NEPA applies to those actions approved prior to January 1, 1970, and to assess future actions to avoid or minimize adverse effects.

5. *Responsibilities.*—a. *External to GSA.*—(1) *Council on Environmental Quality.*—Under section 202 of NEPA (42 U.S.C. 4344), CEQ is responsible for reviewing and appraising the environmental programs and activities of the Federal Government. CEQ will determine the extent to which these programs and activities are contributing to the achievement of NEPA's policy and will make recommendations to the President with respect thereto.

(2) *Environmental Protection Agency (EPA).*—Pursuant to section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), EPA is responsible for the review of agency activities and proposed legislation and regulations if these would result in environmental impact on any activities under the authority of the EPA Administrator.

(3) *Advisory Council on Historic Preservation.*—The Council is charged in section 202 of the National Historic Preservation Act of 1966 (16 U.S.C. 470j) with advising the President and the Congress in the field of historic preservation and with commenting on Federal, federally assisted, and federally licensed undertakings which affect properties listed in the National Register of Historic Places.

b. *Internal GSA.*—(1) *Commissioner, Public Buildings Service.*—The Commissioner acts for the Administrator on environmental and historic preservation matters.

(2) *Director, Special Studies and Programs Office.*—The Director is responsible for the initiation and direction of GSA's agency-wide policy for environmental and historic preservation programs. He has review responsibility on the environmental impact statement process and responsibility for dealing with entities outside the agency on environmental policy matters.

(3) *Director, Environmental Affairs Division, Special Studies and Programs Office.*—The Director coordinates and implements the GSA environmental program and serves as the official GSA liaison officer with the Council on Environmental Quality and the Environmental Protection Agency.

(4) *General Counsel.*—The General Counsel has responsibility for interpreting statutes, Executive orders, guidelines, and regulations, and for reviewing and commenting on the legal sufficiency of environmental assessments, negative declarations, and draft and final environmental impact statements.

(5) *Other.*—As appropriate, each major program area within GSA shall be responsible for drafting and implementing corresponding orders consistent with the requirements of this order and with their respective program functions and operations. Responsibilities within the services and staff offices are to be delineated in the corresponding orders.

6. *Preparation of the environmental assessment.*—Any major GSA action which may significantly affect environmental quality shall be carefully evaluated, and an environmental assessment of the action shall be prepared which will, to the fullest extent possible, address the requirements of section 102(2)(c) of NEPA. (See subpar. 3b(3).) From this assessment a determination can be made to develop an environmental impact statement or a negative declaration. Those GSA actions and activities which are covered by NEPA include, but are not limited to:

a. Major actions which would result from recommendations or favorable reports on legislation, including requests for appropriations, originating both within and outside the agency when GSA has primary responsibility for implementing the legislation;

b. Major actions which would result from establishment or modification of rules, regulations and procedures, and policies;

c. Major new and continuing actions by GSA, including grants, loans, and other funding assistance, new construction, real property actions, procurement actions, stockile management and disposal actions, leases, permits, easements, and licenses; and

d. Major actions which would result from new technology, research, and development, based on the size of GSA's investment, likelihood of widespread application, potential environmental impacts, and degree that continued investment will foreclose alternatives.

7. *Decision to prepare an environmental impact statement.*—Subsequent to an environmental assessment, if there is doubt whether a statement should be prepared, or if the proposed action is likely to be highly environmentally controversial, a statement shall be prepared. It must be recognized that many Federal decisions seem of limited environmental consequence when viewed individually but are of significant consequence when viewed collectively. When GSA is responsible for all such decisions, a GSA statement shall be filed covering the entire complex of decisions and actions.

8. *Specific criteria.*—As required by section 1500.6(c) of the Guidelines, the services and staff offices must review the typical classes of actions that they undertake and develop specific criteria and methods for identifying those actions likely to require environmental statements and those actions likely not to require environmental statements. The specific criteria, if applicable to existing actions and activities, shall be transmitted by the Heads of Services and Staff Offices to the Director, Special Studies and Programs Office (PW), upon request or as new agency activities arise which could qualify under the Guidelines.

ATTACHMENT

CHAPTER 1. DEFINITIONS

1. *Environment.*—The whole complex of physical, social, cultural, and aethetic factors which affect individuals and communities and ultimately determine their form, character, relationship, and survival.

2. *Resources.*—All actions and ideas, as well as living and nonliving materials devoted to the action.

3. *Public entities.*—Any Federal, State, or local offices and legislatures, and any public or semipublic agencies.

4. *Relevant A–95 clearinghouse.*—Clearinghouse(s) listed in OMB Circular No. A–95 (Revised) clearinghouse directory for the geographical area in which the GSA action is to take place. (OMB through its Circular No. A–95 (Revised) established this system of clearinghouses to facilitate intergovernmental and intragovernmental communication.)

5. *Corresponding service and staff office orders and instructions.*—Service and staff office orders and instructions which provide guidelines, delineate procedures, and assign responsibilities relevant to the personnel and activities of the appropriate organization consistent with the basic statutory provisions governing its operations.

6. *Environmental assessment.*—An evaluation occurring early in the approval process of the potential environmental impact of a project or activity.

7. *Environmental impact statement.*—A detailed statement which, pursuant to section 102(2)(C) of the NEPA, to the fullest extent possible, identifies and analyzes, among other things, the anticipated environmental impact of a proposed GSA action and discusses how the adverse effects will be mitigated.

8. *Negative declaration.*—An official administrative decision stating that an analysis of the environmental assessment has been made and that the proposed action is not considered a major GSA action having a significant impact on the environment, and, therefore, will not require the preparation of an environmental impact statement. (The declaration must also include a summary of any known environmental impacts.)

9. *Significant environmental effects.*—Socioeconomic and physical effects which may be beneficial and/or detrimental to the environment, even if the net is believed to be beneficial. (These effects may be influenced by the geographical location of the subject project or action. Significant detrimental effects include those that degrade the environment, curtail its range of uses, or sacrifice its long-term productivity to serve only man's short-term needs.)

10. *Comments.*—All formal reactions by public and private entities to the proposed action and to the environmental impact statement.

11. *Areas of jurisdiction by law or special expertise.*—Specific Federal agencies identified by appendix II of the Guidelines as competent to comment on environmental impact statements which have bearing on particular environmental concerns. (GSA's areas of jurisdiction by law or special expertise include energy and natural resources conservation (design and operation of buildings); property management; redevelopment and construction in built-up areas; historic, architectural, and archaeological preservation; and any other areas designated by the Council on Environmental Quality.)

12. *Lead agency.*—The Federal agency which has primary authority for committing the Federal Government to a course of action with significant environmental impact.

CHAPTER 2. ENVIRONMENTAL IMPACT STATEMENT PROCESS, CONTENT, AND FORMAT

1. *Environmental assessment.*—The preparation of an environmental assessment shall begin within the regional office, service, or staff office in the early stages of planning an action. As the action develops, the assessment shall be prepared by all involved, using interdisciplinary expertise to ensure complete assessment and full consideration of the range of environmental factors in the development of the action to make certain that:

a. Commitments are not made to courses of action that will unnecessarily complicate reconciliation with environmental factors;

b. Environmentally desirable alternatives are not inadvertently foreclosed; and

c. Negative environmental impacts are minimized.

2. *Lead agency.*—a. If there is a question concerning the primary responsibility for statement preparation, the matter shall be referred to the Special Studies and Programs Office (PW) for resolution by CEQ. However, it is possible for a statment to be submitted jointly by all agencies concerned, with the comments being returned to a single designated official.

b. If GSA is the "lead agency" and one or more other agencies have partial responsibility for the action, the other agencies shall be requested to provide to the responsible GSA official such information as may be necessary to prepare a suitable and complete environmental impact statement. If another agency is designated to be the "lead agency," the criteria for statement preparation for that agency shall apply. Thus, GSA should consider its planned action in relation to those actions of other agencies in the area, as well as those actions jointly undertaken by GSA and other Federal agencies.

3. *Clearinghouse consultation.*—The relevant A–95 clearinghouse (as defined in ch. 1–4) shall be notified of plans for the project or action at the earliest practicable point. Thus, any comments germane to the environmental assessment, to the decision to prepare an environmental impact statement, or to the early planning of the action may be promptly received and incorporated.

4. *Decision to prepare an environmental impact statement or negative declaration.*—a. Upon completion of an environmental assessment a decision must be made to prepare either a negative declaration or an environmental impact statement. If it is determined that an environmental impact statement will be necessary, the regional office, service, or staff office developing the action shall begin preparation of the statement as described in pars. 5 and 6.

b. If, however, after preparation of an environmental assessment it is concluded that the action will not constitute a major Federal action significantly affecting the quality of the human environment, the regional office, service, or staff office shall, in accordance with appropriate service or staff office orders:

(1) Forward the environmental assessment and negative declaration or recommendation for a negative declaration to the Central Office program official for review and comment. Copies shall also be forwarded to the Office of General Counsel (L) and the Director, Special Studies and Programs Office (PW), unless the action is a class of action exempted from this procedure by approved service or staff office orders. All such review periods shall run concurrently for a period of 10 workdays from the date of receipt. The 10 workday review period may be extended if necessary. Any requests for additional review time, information or revision shall be directed to the appropriate service or staff office program official. All comments shall be forwarded to the Central Office program official for preparation of a consolidated response to the region. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the need for additional information or revision that may arise between the program officials and other reviewing offices, except that final approval for legal sufficiency shall be the responsibility of the General Counsel or his designee. The assessment shall be attached to a negative declaration. Unless otherwise notified within the review period, the concerned Central Office program official and/or regional office shall assume the environmental assessment and negative declaration are adequate and may proceed with the action.

(2) Document the files with the negative declaration/environmental assessment which shall be available for public inspection upon request.

(3) Continue development of the action, and, in the spirit of environmental enhancement, monitor the action for any subsequent development which may necessitate the preparation of an environmental impact statement.

c. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the decision to prepare an environmental impact statement that may arise between the program officials and other reviewing offices.

5. *Environmental impact statement format.*—a. Draft and final environmental impact statements shall be prepared in clear black type.

b. A cover page containing all essential information to facilitate subsequent identification and retrieval shall be prepared for each statement. Figure 2–5 is a suggested format.

c. The format of the summary sheet accompanying each statement is specified in appendix I of the Guidelines.

6. *Draft environmental impact statement preparation and content.*—a. The draft shall describe in detail the environmental implications of a proposed GSA action and shall satisfy the substantive requirements of the final statement to the fullest extent possible. The minimum content requirements of an environmental impact statement are listed in subpar. 3b(3) of the transmittal order and explained in detail in section 1500.8 of the Guidelines.

b. Preparation of the draft environmental impact statement shall include input from all relevant disciplinary areas. Specialists to be consulted may include urban planners, land use planners, space planners, landscape architects, transportation experts, interior designers, design architects, engineers, geologists, chemists, toxicologists, sociologists, economists, psychologists, statisticians, or any other experts, public or private, deemed necessary for full consideration of all relevant environmental factors. The solicitation of expert assistance from any public or private entity during the preparation of a GSA environmental impact statement does not detract from GSA the responsibility for scope and content of the statement and the judgment relevant to GSA actions on the project.

c. Each statement shall show that the particular economic and technical benefits of the proposed action have been assessed against the environmental effects.

d. When the Head of Service or Staff Office or Regional Administrator deems it appropriate, public meetings shall be held during the course of development of the action, either in the form of public information/factfinding meetings before the draft statement is prepared or in the form of public hearings at least 15 calendar days following issuance of the draft statement. The agency's decision to hold a public hearing shall be based on the magnitude of the action, the complexity of the issue, and the extent of previous public involvement and interest. The Head of Service or Staff Office or Regional Administrator shall determine the best method of notifying the public that a public hearing is to be held.

e. When the service or staff office or regional office has completed the preliminary draft statement, it shall be transmitted in accordance with appropriate service or staff office orders to the Central Office program official for review and comment. Copies shall also be forwarded to the Office of General Counsel (L) and the Director, Special Stud-

ies and Programs Office (PW). All such review periods shall run concurrently for a period of 15 workdays from the date of receipt. The 15 workday review period may be extended if necessary. Any requests for additional review time, information, or revision shall be directed to the appropriate service or staff office program official. All comments shall be forwarded to the Central Office program official for preparation of a consolidated response to the region. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the need for additional information or revision that may arise between the program officials and other reviewing offices, except the final approval for legal sufficiency shall be the responsibility of the General Counsel or his designee. Unless otherwise notified within the review period, the concerned regional or Central Office official shall assume the statement is adequate, or the statement shall be revised according to their comments and distributed as indicated in par. 7 by the Head of the appropriate Service or Staff Office or Regional Administrator.

f. The Head of Service or Staff Office or Regional Administrator shall determine the extent of newspaper coverage and select the newspaper(s) which would most adequately inform the reading public in the area that a GSA draft environmental impact statement has been prepared. Notice should be published at least once and should include how and where copies of the statement may be obtained. The paper(s) may be a weekly and very local in nature. If the action is not local in character, the Head of Service or Staff Office or Regional Administrator shall determine the best method of publicizing the availability for review of the environmental impact statement. The Director of Information in the Central Office and the Regional Administrators in the regions shall clear notices regarding any GSA activity under their jurisdiction as provided in the GSA Administrative Manual, ch. 6-2 (OAD P 5410.1).

7. *Distribution of draft environmental impact statements.*—In accordance with service or staff office orders, the service or staff office or regional office responsible for the preparation of the draft statement shall distribute the statement. The following shall always be included in the distribution:

a. The Governor and Senators from the affected State, the Congressman from the affected district, any other appropriate officials;

b. The Council on Environmental Quality (5 copies);

c. The relevant A-95 clearinghouse, appropriate elected officials, and all State and local agencies that would be interested in the action;

d. Federal agencies directly related to the specific action;

e. EPA (7 copies);

f. All other Federal agencies competent to comment owing to legal jurisdiction or special expertise (for reference, see appendix II of the Guidelines);

g. Any group or individual that requests a copy of the environmental statement; and

h. Any entity, group, or individual that the Special Studies and Programs Office decides should be included.

8. *Commenting period.*—The service or staff office or regional office preparing the statement shall establish a time limit of not less then 45 calendar days for comments on each draft. In establishing this time limit, the service or staff office or regional office should keep in mind the magnitude and complexity of the statement and the extent of citizen interest in the proposed action. For the purpose of establishing the minimum review period, the impact statement received by CEQ during a given week (Monday through Friday) shall be recorded as filed with CEQ on the Friday of the following week. Upon request, GSA may extend the commenting period for up to 15 calendar days whenever practicable. It may be assumed that entities that have not responded by the close of the commenting period do not wish to comment.

9. *Consideration of comments.*—The service or staff office or regional office shall carefully reconsider its action in relation to the relevant and substantive comments received on the draft environmental impact statement and, to the fullest extent possible, but consistent with basic statutory responsibilities governing its program operations, shall make every attempt to reconcile its action with respect to any divergent recommendations by:

a. Altering its current plan of action;

b. Working with the commenting entities to develop mutually acceptable plans or workable compromises; and

c. Working with any additional entities or private groups to initiate additional projects or programs designed to mitigate environmental impacts.

If in the opinion of the Commissioner, Public Buildings Service (P), a substantial environmental consideration was not adequately dealt with in the draft statement, the draft shall be considered incomplete, and consideration shall be given to issuing a supplementary statement as provided in par. 13 or to issuing a new draft statement.

10. *Final environmental impact statement preparation and content.*—a. The final statement shall consist of all the information in the draft statement and information on any developments that arise subsequent to the filing of the draft. All substantive comments made on the draft statement shall be attached to the final statement, insofar as feasible, and the substantive comments must be addressed in the text through revisions and additions or by direct reference. Additionally, wherever a conflict exists, efforts to reconcile differences shall be described, including the activities listed in par. 9.

b. When completed, the preliminary final statement shall, in accordance with appropriate service or staff office orders, be transmitted to the Central Office program official for review and comment. Copies shall also be forwarded to the Office of General Counsel (L) and the Director, Special Studies and Programs Office (PW). All such review periods shall run concurrently for a period of 15 workdays from the date of receipt. The 15 workday review period may be extended if necessary. Any requests for addition review time, information, or revision shall be directed to the appropriate service or staff office program official. All comments shall be forwarded to the Central Office program official for preparation of a consolidated response to the region. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the need for additional information or revision that may arise between the program officials and other reviewing offices, except that final approval for legal sufficiency shall be the responsibility of the General Counsel or his designee. Unless otherwise notified within the review period, the concerned regional or Central Office official shall assume the statement is adequate or the statement shall be revised in accordance with their comments. The Head of the appropriate Service or Staff Office or Regional Administrator who prepared the statement shall then distribute the statement as indicated in par. 11.

11. *Distribution of the final environmental impact statement.*—a. Copies of the final statement shall be sent simultaneously and free of charge to:

(1) All entities that offered substantive comments on the draft;

(2) The Environmental Protection Agency (5 copies);

(3) The relevant A-95 clearinghouse;

(4) The principal whose project is the subject of the statement; and

(5) The Council on Environmental Quality (5 copies).

b. All members of the public who request a copy shall receive one if feasible. When it is not feasible to comply with requests for copies, the Special Studies and Programs Office (PW) shall consult with CEQ in devising alternative arrangements. Under no circumstances shall a charge be affixed greater than the cost of reproduction.

12. *Moratorium period.*—The services and staff offices and regional offices shall take no administrative action in prosecution of any phase of the subject action within 90 calendar days of the commencement of the review period on the draft (see par. 8) or within 30 calendar days of CEQ's receipt of the final statement. The above 90- and 30-day periods may run concurrently to the extent that they overlap. The Commissioner, Public Buildings Service, or Regional Administrator shall receive all requests for reducing the minimum time requirements. If after weighing all considerations he deems the request justified, he shall instruct the Special Studies and Programs Office (PW) to consult with the Council on Environmental Quality in arriving at alternative arrangements. Each organization shall be responsible for defining in its orders what action will not constitute "an administrative action in prosecution of the action" for each of its typical classes of action for which environmental impact statements are often prepared.

13. *Supplementary statements.*—The service or staff office or regional office shall supplement or amend draft and final statements when substantial changes are made in the proposed action (unless these changes are made to decrease the environmental impact), when changes are made which significantly increase the adverse environmental impact, or when significant new information becomes available concerning the environmental impact of the action. The service or staff office or regional office shall distribute these supplements or amendments pursuant to par. 11, and the Special Studies and Programs Office (PW) shall consult with CEQ regarding the necessity of reestablishing appropriate commenting or review periods.

14. *Recommendations or favorable reports on proposals for legislation.*—a. If GSA makes a recommendation or favorable report on a legislative proposal the subject of which is the primary responsibility of GSA, then GSA must determine the environmental impact of that proposal. If in the opinion of the Head of a Service or Staff Office, the Director, Special Studies and Programs Office, or the Commissioner, Public Buildings Service, the proposal may have significant environmental impact, an environmental impact statement shall be prepared on the proposal consistent with the provisions of section 1500.12(b) of the Guidelines.

b. Where possible, the final statement shall be available to the Congress, CEQ, EPA, and the public at the time the legislation is submitted to the Congress. If time is a constraint, the draft statement may be used.

15. *Early notice system.*—a. Each service and staff office and regional office shall keep available for public inspection a current list of its contemplated actions for which environmental impact statements are being prepared. A copy of the current list shall be transmitted to the Special Studies and Programs Office (PW) on the last workday prior to March 9, June 9, September 9, and December 9 of each year.

b. Each service and staff office and regional office shall also maintain for public inspec-

tion a current list of its actions for which negative declarations have been made and shall transmit them pursuant to a, above.

c. The Special Studies and Programs Office (PW) shall compile the aforementioned lists and transmit composite agency lists for the previous quarter to the CEQ by March 15, and June 15, September 15, and December 15 of each year.

d. The Special Studies and Programs Office (PW) shall promptly notify CEQ if any action is listed as one for which an environmental impact statement is being prepared and at a later date a decision is made that only a negative declaration is needed.

16. *Commenting on environmental impact statements prepared by other agencies.*—Upon receipt in GSA of a draft statement prepared by another agency, the Special Studies and Programs Office (PW) shall forward the statement to those GSA offices competent to comment on it. Those offices shall then provide comments for the Special Studies and Programs Office's official reply. Comments shall be specific, substantive, and factural, following the format of the draft statement. Within GSA's areas of jurisdiction by law or special expertise, GSA will assess the degree of environmental impact and the acceptability of that impact. GSA may recommend modifications or alternatives to a project. (See section 1500.9e of the Guidelines.)

17. *Supplementary guidelines.*—The CEQ Guidelines, upon which this order is based, may be supplemented as required by CEQ. The Guidelines became effective on January 28, 1974, and are effective for all draft and final impact statements filed with the Council after that date.

DRAFT (FINAL) ENVIRONMENTAL IMPACT STATEMENT

(Name of action or property and location)

Environmental Statement Number ( )

Number of Volumes ( )

Prepared by:

(Name, title, address, and telephone number of official who drafted statement)

(Organization)

(Date)

(This date shall be the date of the letter transmitting the statement to CEQ)

FIGURE 2-5.—Format for cover sheet for environmental statement.

[FR Doc.77-13499 Filed 5-11-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1977:

DRUG ABUSE PREVENTION REVIEW COMMITTEE

Date and time: June 21-22, 1977, 9 a.m.
Place: Conference Room 873, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852.
Type of meeting: Open, June 21, 9 to 10 a.m., Closed, otherwise.
Contact: Dr. John R. Olsen, Room 752, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852, 301-443-2450.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to prevention activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.
Agenda: From 9-10 a.m., June 21 the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

DRUG ABUSE DEMONSTRATION REVIEW COMMITTEE

Date and time: June 27-29, 1977, 9 a.m.
Place: Southwest Conference Room, 8th floor, One Central Plaza, 11300 Rockville Pike, Rockville, Maryland 20852.
Type of meeting: Open, June 27, 9 to 10:30 a.m.; Closed, otherwise.
Contact: Thomas C. Voskuhl, Room 630, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852, 301-443-4100.
Purpose: The Drug Abuse Demonstration Review Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.
Agenda: From 9 a.m. to 10:30 a.m., June 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

ALCOHOL RESEARCH REVIEW COMMITTEE

Date: June 29-July 1.
Place: Holiday Inn, Bethesda, Maryland.
Type of meeting: Open, 9 to 10 a.m., June 29; Closed, 10:30 a.m., June 29 through July 1, 1977.
Contact: James C. Teegarden, Ph. D., 6C-03 Parklawn Building, Rockville, Maryland 20857, 301-443-4223.
Purpose: The Committee provides initial review of applications for basic research grants, applied research grants, and special grants, in such project areas as pharmacological, physiological, sociological and psychological aspects of alcohol use, incidence and prevalence of alcohol-related problems. Makes recommendations to the Director, National Institute on Alcohol Abuse and Alcoholism, and to the National Advisory Council on Alcohol Abuse and Alcoholism.
Agenda: From 9 to 10 a.m., June 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Apendix I).

Substantive program information may be obtained from the contact persons listed above.

The NIDA Information Officer who will furnish summaries of the meeting and a roster of the Committee membership on request is Mr. Kenneth Howard, Director, Office of Communications and Public Affairs, 11400 Rockville Pike, Room 110, Rockville, Maryland 20852, 301-443-6500. The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the Committee Membership is Mr. Henry Bell, Director, Office of Public Affairs, NIAAA 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4223.

Dated: May 6, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-13498 Filed 5-11-77;8:45 am]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

NAME: Coal Mine Health Research Advisory Committee.

DATE: May 27, 1977.

PLACE: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

TIME: 9 a.m.

TYPE OF MEETING: Open: 9 a.m. to 2:30 p.m. on May 27; Closed: Remainder of meeting.

CONTACT PERSON:

Marilyn K. Hutchison, M.D., Executive Secretary, Park Building, Room 3-14, NIOSH, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: 301-443-6377.

PURPOSE: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare, on matters involving or relating to coal mine health research, including grants and contracts for such research.

AGENDA: Agenda items for the open portion of the meeting will include announcements, consideration of minutes of previous meeting, administrative and staff reports, review of the Mining Enforcement and Safety Administration coal mine health program, health research in the Bureau of Mines, activities

of the National Advisory Committee on Occupational Safety and Health, and the Appalachian Laboratories for Occupational Safety and Health research report. During the closed session beginning at 2:45 p.m., the Committee will be performing the final review of coal research grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in section 52b(c)(6), Title 5, U.S. Code, and the Determination by the Director, Center for Disease Control pursuant to Pub. L. 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Any one wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentation will be scheduled at the discretion of the Chairman and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairman. At the discretion of the Chairman and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 9, 1977.

WILLIAM C. WATSON, Jr.,
Director, Center for Disease Control.

[FR Doc.77-13728 Filed 5-11-77;8:45 am]

National Institutes of Health

AGING REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on June 23, 1977, in Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on June 23 for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 553b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 23 from 10:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Suzanna Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13522 Filed 5-11-77;8:45 am]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice Ris hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on June 28-29, 1977, from 8:30 a.m. to 5:00 p.m. on June 28, and from 8:30 a.m. to adjournment on June 29, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public from 8:30 to 12:00 p.m. on June 28, for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 28 from 12:00 p.m. to 5:00 p.m. and from 8:30 a.m. to adjournment on June 29 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301-494-4191, will provide summaries of the meeting, rosters of Committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.348, 13.349, 13.351, 13.352, 13.881—National Institues of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 77-13525 Filed 5-11-77;8:45 am]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 13-14, 1977, at the Seattle Hyatt House, in the Continental Room, Seattle, Washington.

This meeting will be open to the public from 8:30 a.m. to 9:00 a.m. on June 13, 1977, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 13, 1977 from 9:00 a.m. to adjournment and from 8:30 a.m. to adjournment on June 14, 1977, for the review, discussion and evaluation of individual grant applications and individual contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13523 Filed 5-11-77;8:45 am]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, June 23, 24, and 25, 1977, Conference Room 4, building 31, National Institutes of Health, Bethesda, Maryland 20014.

The meeting will be open to the public on June 23, 1977, from 9:00 a.m. to 11:00 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public from 11:00 a.m. on June 23 to adjournment on June 25, for the re-

view, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephriam Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B47, Building 31, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13524 Filed 5-11-77;8:45 am]

PHARMACOLOGY-TOXICOLOGY RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pharmacology-Toxicology Research Program Committee, National Institute of General Medical Sciences, June 16-17, 1977, National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on June 16 from 9:00 a.m. to 10:00 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6), the meeting will be closed to the public on June 16 from 10:00 a.m. to 5:00 p.m. and on June 17 from 9:00 a.m. to 5:00 p.m. or adjournment for the review, discussion and evaluation of individual grant applications. These applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20014, Telephone: 301, 496-7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Raymond E. Bahor, Executive Secretary, Westwood Building, Room 919, Bethesda, Maryland, Telephone: 301, 496-7707.

(Catalog of Federal Domestic Assistance Program 13-859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13521 Filed 5-11-77;8:45 am]

Office of Education

STATE STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

Extended Closing Date for Receiving State Applications

On April 8, 1977, a notice was published in the FEDERAL REGISTER establishing May 15, 1977 as the closing date for receipt of applications from States under Section 493C of the Higher Education Act of 1965, as amended, to design and develop State Student Financial Assistance Training Programs (42 FR 18663).

To give State agencies additional time to complete these applications, the deadline for receipt of applications is hereby extended to Friday, June 10, 1977. All other requirements of the notice for the State Student Financial Assistance Training Program published on April 8 will remain in effect.

(20 U.S.C. 1088b-3.)

Dated: May 10, 1977.

(Catalog of Federal Domestic Assistance Number 13.582; State Student Financial Assistance Training Program.)

RICHARD L. MCVITY,
Director, State Student Incentive Grant Program, Bureau of Student Financial Assistance.

[FR Doc.77-13768 Filed 5-11-77;8:45 am]

Office of the Secretary

STUDENT FINANCIAL ASSISTANCE STUDY GROUP

Hearing and Meeting

The Student Financial Assistance Study Group was established by public notice on August 27, 1976, to advise the Secretary of Health, Education, and Welfare on ways to implement more effectively and efficiently the Student Financial Assistance Programs administered by the Department. These programs include the Basic Educational Opportunity Grants Program (BEOG), the Guaranteed Student Loan Program (GSL), the Supplemental Educational Opportunity Grants Program (SEOG), the National Direct Student Loan Program (NDSL), the College Work-Study Program (CWS), and the State Student Incentive Grant Program (SSIG).

Notice is hereby given pursuant to Pub. L. 92-463 that the Student Financial Assistance Study Group will hold a hearing to receive comments on recommendations which the Study Group proposes to make to the Secretary of HEW. The public hearing will be held on Thursday, May 26, 1977 in Room 305A of the South Portal Building of the Department of Health, Education, and Welfare, at 200 Independence Avenue, Washington, D.C. from 9:00 a.m. to 4:00 p.m. This is the final public hearing of the Student Financial Assistance Study Group.

INDEX OF THE PROPOSED RECOMMENDATIONS OF THE STUDENT FINANCIAL ASSISTANCE STUDY GROUP

The Student Financial Assistance Study Group here presents a series of brief statements which outline the Study Group's recommendations regarding the determination of eligibility for participation in the Federal programs, its recommendations for increasing the effectiveness and the efficiency of the delivery of student aid, and its recommendations directed at improving program management and insuring program integrity. This is not meant to be a full or final statement of the Study Group recommendations. In such brief statements, it is impossible to present the full scope of the intent as well as provide a rationale for the recommendation. These statements are intended only to give an idea of the direction of the recommendation.

INSTITUTIONAL ELIGIBILITY

1. *Two step eligibility process.*—The institutional eligibility process should be changed from the current one-step process to a two-step process. The first step, handled by the Division of Eligibility and Agency Evaluation (DEAE) should determine educational quality; the second, accomplished within the Bureau of Student Financial Assistance (BSFA) would determine financial management capability of the institution.

2. *First step-determination of basic eligibility.*—In fullfilling its continuing responsibility for Basic Eligibility, the Division of Eligibility and Agency Evaluation (DEAE) should rely on approved accrediting agencies and also on state agencies.

3. *Second step-determination of certification and compliance.*—An Office of Certification and Compliance, established within the Bureau of Student Financial Assistance (BSFA), should be responsible for the second step of the process.

4. *Alternative procedures.*—The three letter procedure should be discontinued or significantly modified. The Commissioner's approval procedure, for institutions not having access to a nationally recognized accrediting agency should be continued. The process of using State Agency approval for public Postsecondary Vocational Schools, and State Agency approval of Nurse Education should be continued. Efforts should be made to avoid the use of the Commissioner's Satisfactory Assurance Procedure.

5. *Standardization of requirements.*—Basic Eligibility requirements should be standardized from one program to another.

6. *Formal recognition of State accrediting, licensing and charter agencies.*—State accrediting, licensing and charter agencies should be recognized

and utilized as supportive resources as are private accrediting agencies; the Office of Education should endeavor to strengthen the role of these groups.

7. *Information network exchange.*—A national network should be established to exchange information on eligibility issues. (Such a network might include DEAE, national accrediting associations, state accrediting, licensing, and charter agencies, the Federal Trade Commission, the Veteran's Administration, etc.

8. *Contracting between eligible and non-eligible institutions.*—The Commissioner should limit and control the extent of services which an eligible institution may contract from an ineligible institution.

STUDENT ELIGIBILITY

1. *Common definition.*—Criteria for student eligibility should be consistent for all SFA programs except GSL.

2. *Need definition.*—There should be a common and consistent statutory definition of the term "need" for Basic Grant and campus-based programs.

3. *Student expense budgets.*—Institutions of postsecondary education, in making financial aid awards, must be obliged to use student budgets which are consistent with published institutional literature. The Office of Education should support the development and publication of a manual of budget construction.

4. *Defining the independent/self-supporting student.*—The current definition of "independent student" needs immediate resolution.

5. *Use of need analysis systems for independent students.*—Institutions should be prohibited from including a living allowance in the budget for an independent student when the need analysis system used has provided for such an allowance.

6. *Equitable packaging procedures.*—Fair packaging procedures should be encouraged but uniformity in this regard should not be mandated by Office of Education.

7. *Progress requirement.*—A student should successfully complete a minimum number of credits in order to be eligible for financial aid.

8. *Duration and funding limitations.*—An overall maximum monetary limit should be placed on an individual student's eligibility for College Work-Study.

9. *Part-time students.*—Research is needed to better understand the needs of the part-time student and the impact his financial needs will have on postsecondary education, thereby testing the necessity for a separate set of student expense budgets.

10. *Correspondence school students.*—Specialized regulations are needed to address the unique circumstances of correspondence school students.

LENDER ELIGIBILITY

1. *Unregulated lender requirement.*—Unregulated lenders (educational institutions) should demonstrate organizational and managerial capability equal to that of regulated financial institutions (banks).

2. *Educational institutions lender certification.*—The Office of Education should establish certification standards and criteria, including a formal agreement, to determine adequacy of educational lenders.

3. *Annual agreement or contract provisions.*—Office of Education and/or State guarantee agencies should formally contract with lenders on an annual basis to maintain standards of participation.

4. *Reporting and control system.*—Office of Education and/or State agencies should measure performance of educational and other non-regulated lenders through an established reporting and control system.

5. *HEW audit guidelines.*—HEW Audit guidelines should be developed for the audit of regulated and non-regulated lenders.

6. *Lender on-site compliance reviews.*—On-site compliance reviews should be made of all lenders prior to approval and on a regular basis during participation in the program.

7. *Improving communications between and providing training for guarantors and participating lending institutions.*—Communication between guarantee agents (Office of Education or State guarantee agencies) and lenders must be strengthened. Training sessions, the use of advisory groups and the greater use of regional offices are ways to accomplish this.

8. *Encouraging good lender portfolio management practices.*—A variety of techniques should be employed to encourage good lender portfolio practices including training, development of manuals, compliance review and the like.

9. *Encouraging increased State participation.*—Office of Education should increase its efforts to encourage the participation of additional states in the Guaranteed Student Loan program. An indepth study should determine optimal methods of program administration and develop models for the use of additional state participants.

10. *Lender assistance in dissemination of student financial aid information.*—All guarantee agents should establish and coordinate a student information resource system to provide loan officers with eligibility requirements and current availability information on other sources of Student Financial Assistance.

11. *Student borrower pre-loan counseling.*—All borrowers should be counseled to understand obligations and responsibilities of the program prior to the disbursement of the loan funds.

12. *Development of regulations pertaining to the guaranteed student loan program.*—Joint meetings between the Office of Education and all guarantee agents should be convened regularly to promote common interpretation of policy, law and regulations and achieve uniform procedures.

13. *Implementation of the escrow system.*—The proposed Escrow System should not be implemented until a thorough review of all feasible alternatives to the system has been completed.

14. *Responsibilities of educational institutions which do not participate as lenders in the guaranteed student loan program.*—Non-lending eduactional institutions whose students borrow in the Guaranteed Student Loan program should be required to assume management responsibilities in the program, such as counseling of students, certification of student eligibility and timely notification of student termination and graduation.

15. *Review guaranteed student loan program participation of non-lenders.*—Program compliance visits to educational institutions for programs other than the Guaranteed Student Loan program should include a review of that program.

16. *Certification and limit, suspension and terminate processes—State agencies.*—Procedures for Limit, Suspension, and Termination action in the Guaranteed Student Loan Program delegated to state and private non-profit guarantee agencies should be more clearly defined.

17. *Joint site visits between OE and State agencies.*—The Office of Education and State agencies should conduct joint site visits of institutions of higher education and financial institutions.

INFORMATION FOR STUDENTS AND PARENTS

1. *Coordination of efforts.*—A clearinghouse should be established for all student assistance information activities for Federal, State, institutional and community-based programs.

2. *State agency programs.*—State initiated information programs should be encouraged through the identification of exemplary programs and through incentive grants to improve information dissemination.

3. *Institutional initiatives.*—Institutional information initiatives must be encouraged by providing training seminars, identifying and disseminating exemplary materials and assisting institutions in the refinement of their materials.

4. *Scope of information content.*—The content of information efforts should be balanced and comprehensively directed toward improving student access, choice, retention, and student protection.

5. *Information dissemination audiences.*—Information dissemination efforts should be targeted to obtain cooperation of all media, education and student associations, should appeal to all audiences, all academic levels, traditional and non-traditional, people of all socio-economic backgrounds as well as to all who are in a position to influence educational decisions.

STUDENT APPLICATION PROCESS

1. Common Financial Aid Data Collection System (CFADC). A student application system should be implemented to make it possible for a student to supply financial data only once a year in order to have family financial strength analyzed.

2. *Base year family financial data.*—In the final assignment of Federal funds only verifiable year-end data on the family financial situation should be used.

1. *Data validation.*—The Common Financial Aid Data Collection system should include a coordinated data validation component.

2. *Identification of common data elements and establishment of common definitions.*—The common data elements and definitions which will permit the Common Financial Aid Data Collection to operate should be identified by the Office of Education, private need analysis services and state scholarship and grant agencies with all practical speed in order to have full implementation of the system for the academic year 1978–79.

3. *The Basic Education Opportunity Grant application deadline date.*—The deadline for filing the application for Basic Educational Opportunity Grant should be extended to a later point in the program year.

4. *The Basic Educational Opportunity Grant appropriations procedures.*—The appropriation procedures for the Basic Educational Opportunity Grant Program should either fix the dollar amount of the appropriation on the basis of the best projection of needed funds or agree to an established payment schedule.

THE FUNDING APPLICATION PROCEDURE FOR STUDENT FINANCIAL ASSISTANCE

1. *Requirements of a funding process.*—The process designed to assign campus-based funds to participating institutions must be simple and straightforward; understandable to all concerned; provide equity; and be consistent from state to state, region to region, and institution to institution.

2. *Developing a new institutional funding process.*—A new method of fund allocation should be developed and fully operational for use in 1979–80 (Fall 1978). The development of the 1979–80 funding process should be "transitional" in that revisions in the 1978–79 process should be consistent with the approach to be utilized in 1979–80.

3. *Developing a new institutional funding process.*—The 1978–79 process should fund all institutions at a level which bears a reasonable relationship to current levels, attempt to correct gross inequities and be flexible to accommodate new institutions.

4. *Establishment of a working group.*—The Commissioner should immediately establish a working group to assist in the development of new approaches to the funding process. The committee's oversight role should continue until a permanent fund allocation system is in place and operational (September 30, 1978).

5. *Reducing the reporting burden.*—One data collection document should be developed which would replace both the Fiscal Operations Report and the application for new funding.

STATE ALLOCATION SYSTEM

1. *An appropriate conceptual framework for the institutional Application and State Allocation Procedures.*—The established working committee should consider the incongruities between procedures utilized to bring funds to States and those used to distribute funds within States.

2. *The assignment of the ten percent discretionary funds.*—The Working Committee that is asked to develop the new institutional application and State Allocation Procedures should, as part of its task, review the need for the ten percent discretionary funds to be allocated in a manner different from the allocation of the ninety percent statutory funds.

3. *Revising the State allocation formulae.*—Variables utilized in the State allocation formulae should be changed to be consistent with the eligible populations being served by these programs.

PAYMENTS OF FUNDS TO INSTITUTIONS AND TO STUDENTS

1. *Payment of funds control.*—Procedures should be established immediately between the Office of Education and Departmental Federal Assistance Financing System, to deobligate promptly and prevent the release of improper payments to institutions for campus-based and Basic Educational Opportunity Grant programs.

2. *Payment of funds control.*—Controls should be established to assure that the cash draw and cash balances of schools as reported to Departmental Federal Assistance Financing System are reconciled to those approved and canceled by the Office of Education. Differences should be investigated and corrected promptly.

3. *Cash utilization verification.*—Cash utilization reports submitted to Departmental Federal Assistance Financing System and the Office of Education by institutions of postsecondary education should be verified to the accounting records of schools as a normal part of the on-site reviews of schools.

4. *Basic educational opportunity grant alternative disbursement system.*—The need for the Basic Educational Opportunity Grant Alternative Disbursement System should be reassessed with consideration given to a timely phase-out of the procedure.

5. *Payments to students by institutions (Basic Educational Opportunity Grant and Supplemental Educational Opportunity Grant Programs).*—Payments to students should reasonably relate to their expenses over their period of attendance, and be conditioned upon their continued goodstanding (satisfactory progress). Cash draw downs by schools from Departmental Federal Assistance Financing System should reflect the actual student payments.

ORGANIZATIONAL STRUCTURE

1. *Single administrative unit.*—All six student financial aid programs should be consolidated into a single administrative unit.

2. *Appropriate level in hierarchy.*—This single administrative unit should be placed in this hierarchy of the Office of Education at an appropriate level to facilitate its operation: this suggests a bureau level.

3. *Functional lines.*—The Administrative Bureau should be organized along functional lines rather than program lines.

4. *Operations division.*—Separate units should be established within an Operations Division to perform the operations activities of the loan and grant program.

5. *Departmental Federal assistance financing system.*—The Division of Eligibility and Agency Evaluation should remain separate from the Student Financial Assistance organization. A separate certification division should be established within the Bureau of Student Financial Assistance to certify a school's participation in the Student Financial Assistance programs.

REGIONAL OFFICES

6. *Organizational structure.*—The organizational structure of the Regional Offices should be compatible with the Central Office in those areas where they have authority and responsibility.

7. *Authority clearly set out.*—Respective authorities and responsibilities of the Regional Offices and headquarters must be set out clearly.

8. *Standard policies and procedures.*—Standard policies and procedures must be established for Regional Office operations.

ORGANIZATION—STAFFING

1. *Number of employees.*—Staffing levels need to be adequate to ensure proper control throughout the process.

2. *Qualifications.*—Qualifications for filling these staffing needs must call for individuals able to handle this type of responsibility.

TRAINING THE FINANCIAL AID OFFICER

1. *Training in the management of student financial assistance programs.*—The Office of Education should give incentive and guidance in the development of a comprehensive training program directed toward those involved in the management of Student Financial Assistance programs.

MANAGEMENT

Management information reporting.—The Bureau of Student Financial Assistance should provide its managers with periodic status reports on its various operations.

2. *Collection of data.*—Data collection activities of the various Student Financial Assistance programs should be coordinated and, when possible, consolidated.

3. *Computer utilization.*—Health, Education, and Welfare should undertake a full scale review of all Student Financial Assistance computer operations.

4. *Personnel management.*—The job description of the Student Financial Assistance Staff at Headquarters and in the

Regions be revised to more accurately describe the duties actually performed and that common job descriptions be written for like duties.

5. *Consolidation of progress reports.*—The campus-based Fiscal Operations Reports should be consolidated with the Basic Educational Opportunity Grant Progress Reports.

6. *Elimination of Basic Educational Opportunity Grant Progress Report.*—The Basic Educational Opportunity Grant procedure for processing school progress reports and for making adjustments to school payment authorizations should be reassessed.

7. *Coordination with other Federally supported student financial assistance programs (outside of the Office of Education.*—Efforts should be made to provide closer coordination and interaction between other Federal programs that provide financial assistance to students and the programs operated by the Office of Education.

8. *Statement of intent and purpose.*—The Office of Education should promulgate a statement which, in accordance with available evidence of Congressional intent, clearly sets out the national purpose of the Student Financial Aid programs. Such a statement should explain the relationship among the several programs and the relationship between the Federal funds and non-Federal student aid funds.

9. *Streamlining the regulation process.*—The Office of Education should streamline the process for writing regulations to facilitate their distribution on a more timely basis. A single organizational unit within the Bureau of Student Financial Assistance should be responsible for the development and publication of all regulations to insure their compatibility and consistency.

10. *Regulation coordination.*—Immediate attention must be given to ensure that new regulations now being written in response to the various provisions of Education Amendments of 1976 are not only coordinated with each other but also with other existing relevant regulations.

11. *Manual issuances.*—The Office of Education should give immediate attention to the development and dissemination of an integrated set of guidelines or manuals governing all financial aid programs administered by the Bureau of Student Financial Assistance.

12. *Establishment of support centers (regional offices).*—The Study Group recommends that the Regional Office be designated as the OE program support center, and that the Central Office of Education give consistent policy direction to these Regional Offices so that a uniform interpretation of rules, regulations, and program management directives is achieved.

13. *Policy changes—National Direct Student Loan.*—The cancellation provisions in the National Direct Student Loan program should be dropped. Between student and school the grace period and loan payment amounts should be negotiable within established limits. Institutions should be allowed to write off uncollectible loans after all efforts at due diligence have failed. Increased efforts should be made to consolidate loans in repayment status in order to reduce multiple payments.

14. *Policy changes—Basic Educational Opportunity Grant.*—The Basic Educational Opportunity Grant entitlement as presented on the Payment Schedule should be for periods of attendance of 8 months or more. Institutions with school years of more than 8–9 months should have the option of disbursing over a period of between 8 months and Basic Educational Opportuntiy Grants the actual length of the school year.

Average costs should be used for students' on-campus room and board rather than actual cost.

The computation used for summer awards, refund policy and other items not covered in the Basic Educational Opportunity Grant Handbook should be addressed immediately by the Office of Education.

The Payment Schedule development should be timed in such a fashion so as to allow its distribution at approximately the same time as the Basic Educational Opportunity Grant applications to which it will relate.

Student Eligibility Reports should be accepted for Basic Educational Opportunity Grant computation by the institution only for the period during which it is submitted or subsequent periods during the academic year.

Information concerning dependent student earnings should be collected on the Basic Educational Opportunity Grant application to better assess the contribution to be expected from the family unit.

15. *Policy changes—Supplemental Educational Opportunity Grant.*—The difference between Supplemental Educational Opportunity Grant initial year and continuation years should be eliminated.

The "matching" requirement should be eliminated.

16. *Policy changes—College Work-Study Program.*—Institutions should be allowed to transfer students who have earned full College Work-Study Program eligibility to college payroll without penalty of overawarding.

Student should not be able to use the loss of College Work-Study employment in filing claims for unemployment compensation or similar programs designed to support the regular workers who are unemployed.

Work-Study utilization rates used in computing institutional program effectiveness should take into account the large number of variables in the employment program.

Institutions should be allowed to carry over unused College Work-Study funds from one award period to the next.

17. *Transfer of funds between campus-based programs.*—The Study Group recommends more flexible procedures to cover the transfer of funds between the campus-based programs (National Direct Student Loan, College Work-Study Program, Supplemental Education Opportunity Grant).

18. *Reallocation of unused funds.*—The Study Group recommends that the Regional Offices of Education be given final responsibility for reallocating unused funds between institutions and between states.

19. *Combining the National Health Professions Federally Insured Loan Program and the Guaranteed Student Loan Program.*—The Study Group recommends that the National Health Professions Federally Insured Loan Program be eliminated as a separate program and that the Guaranteed Student Loan Program be restructured to provide for increased loan limits to students in the health professions.

20. *Payment of administrative allowance to schools.*—Institutions of postsecondary education should be paid an allowance for the costs incurred in administering the Student Financial Aid programs. The amount of these allowances should be established thru a representative sample survey undertaken to identify the costs involved in the administration of all student aid programs to establish as basis for reimbursing institutions for the administration of federal aid programs.

21. *Verification of student information by schools.*—The Study Group recommends the promulgation of regulations for the Basic Educational Opportunity Grant, National Direct Student Loan, College Work-Study Program, Supplemental Educations Opportunity Grant, and Guaranteed Student Loan programs which clarify and extend institutional responsibility for comparing and verifying information received from different sources for each recipient of Federal funds.

22. *Verification of income through Federal records.*—Students should be asked upon application to give permission to utilize IRS and other Federal records to verify income and aid in the collection of loans.

23. *Financial aid transcripts.* The Study Group recommends that the Office of Education assist in developing a standard financial aid transcript for use by school in monitoring students' financial aid.

24. *Preventing abuse through student bankruptcy.*—The Study Group recommends that the Secretary communicate to the appropriate member of Congress the wisdom of keeping in effect the provision of the Education Amendments of 1976 which limits the dischargeability of federally insured education loan debts through the filing of a petition of bankruptcy, and indicate to those members of Congress the Department's opposition to Section 436 of HR. 6.

25. *Student repayment computation.*—The Study Group recommends that the Office of Education establish a common,

simple methodology for crediting repaid advances made to students back to the SFA programs from which the advances were originally paid.

26. *Payment of disability claims.*—The Study Group recommends that the Secretary take immediate action to insure expeditious processing of permanent and total disability claims.

27. *Information for planners and evaluators.*—The Study Group recommends that the Office of Education undertake a series of studies to evaluate whether existing programs are fulfilling their intended purposes, to identify and evaluate actual and perceived barriers to the equitable distribution of financial aid, to ascertain the ramifications implicit in expected changes in the size of the eligible populations, possible changes in social security and veterans' benefits, new enrollment patterns among potential students, etc., and to simulate alternative ways to distributing funds.

28. *Institutional management and organization.*—The Study Group recommends that the office of Education include as a part of the conditions specified in the terms of agreement (1) that written policies, procedures and guidelines governing Student Financial Aid programs be developed (2) that appropriate staff be assigned to the Student Financial Aid process to carry out such policies and procedures (3) that short term and long-range plans be available describing the use of Federal aid dollars in relation to the institution's total aid program.

29. *Implementing limit-suspend-terminate authority.*—The Study Group recommends that the Office of Education immediately issue regulations and procedures to implement its legislative authority to limit, suspend, or terminate schools and lenders participating in the Student Financial Aid programs which fail to comply with program requirements.

The regulations should assure a fair hearing for institutions against which such actions are initiated.

However, the regulations should provide for immediate, temporary suspension of institutions where necessary to protect the integrity of the programs or the interest of the Government.

A network should be established to assure the communications of timely current information on actions pending or taken under the Limit, Suspend and Terminate process. The Office of Education should maintain and publish a current listing of certified institutions.

30. *Limit, suspend and terminate—basic eligibility and compliance actions.*—The Study Group recommends that the Office of Education regulations on Limit, Suspend, and Terminate distinguish between those actions related to the responsibilities of the Division of Eligibility and Agency Evaluation and those responsibilities of the Bureau of Student Financial Assistance.

Provision should be made whereby State Guarantee Agencies may be delegated authority to take compliance actions where appropriate and necessary.

31. *Designated Office of Education official.*—The Limit, Suspend and Terminate regulations should identify a single Office of Education official as the deciding officer for making emergency action, suspend, limit, or terminate decisions. This official should be the Deputy Commissioner of the Bureau of Student Financial Assistance who should delegate his authority to the Regional Commissioner and State Guarantee Agency as deemed appropriate and necessary. The decision of the deciding official should be appealable to an independent Board of Appeals or an Administrative Law Judge reporting to the Commissioner of Education.

32. *Limit, suspend, and terminate regulations—separate procedures.*—The Study Group recommends that new regulations distinguish between and provide separately for suspension, limitation, and termination proceedings. The Deputy Commissioner of the Bureau of Student Financial Assistance or his designee should be able to initiate proceedings under each of these provisions in the order deemed necessary rather than as currently specified in the proposed regulation.

33. *Limit, suspend and terminate regulations—clarity of terms.*—The Limit-Suspend-Terminate regulations should not contain ambiguous terms or language with unclear meanings.

34. *Staff and other resources for effective implementation.*—The Study Group recommends that the Office of Education the Department of Health, Education and Welfare and the Office of Management and Budget carefully review the Office of Education's capability to implement new regulations on Limit, Suspend, and Terminate actions and that appropriate actions be taken to insure that sufficient staff and other resources are available to meet the need for effective and timely administrative action.

35. *Limit, suspend, and terminate—emergency action.*—The Limit, Suspend, and Terminate regulations should provide for emergency action, i.e., immediate suspension of an institution's authority to participate in one or more Student Financial Aid programs. An institution, against which an emergency action has been taken, should be afforded opportunity for a fair hearing. However, an appeal of an emergency action by itself should not act to delay the initiation of the emergency action.

36. *School/lender fiscal and program reviews.*—The Office of Education should work jointly with State Guarantee Agencies, the Office of the Inspector General (OIG) and in coordination with the Association of Independent Certified Public Accountants to develop audit guides and instructions for use in onsite reviews by independent auditors. Office of the Inspector General and Student Financial Aid staff. The Office of Education, the Regional Office and the State Guarantee Agencies should coordinate the on-site reviews of schools and lenders to prevent multiple and duplicative visits to the same institution. Required biennial audits of schools and lenders should be the foundation upon which onsite reviews are scheduled. Maximum reliance should be placed upon independent auditors, state auditors and the Office of the Inspector General for the conduct of reviews. Student Financial Aid staff on the other hand should concentrate on performing priority reviews in accordance with prescribed guidelines performing special reviews as deemed necessary by the Bureau of Student Financial Assistance, and providing support services to institutions.

Procedures should be established whereby those institutions which are known or potential high risks can be identified and reviewed on a priority basis.

Dr. John A. Perkins, Chairman of the Student Financial Assistance Study Group, will preside at the hearing. Persons wishing to testify are encouraged to limit their oral statements to 10 minutes. Requests to testify should be submitted in writing to: Mrs. Mary Jane Calais, Staff Director, Student Financial Assistance Study Group, Room 325H, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245-9855. Requests to testify should reach Mrs. Calais not later than May 20, 1977. Persons wishing to present written statements for the record are encouraged to do so. Such written statements should be received by the Student Financial Assistance Study Group not later than May 20, 1977.

The hearing will be open for public observation.

Pursuant to Public Law 92-463, notice is also hereby given of a meeting of the Student Financial Assistance Study Group to be held on Friday, May 27, 1977 from 8:30 a.m. until 12:00 noon in Room 339A of the HEW South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

On Saturday, May 28, the Study Group will meet in Room 305A from 8:30 a.m. until 4 p.m.

The meeting will be used to review and discuss the final report and to make final staff work assignments. Members of the public are invited to attend the meeting; but due to limited meeting accommodations, reservations are recommended. Persons wishing to attend should notify the Study Group Staff Director by mail at Room 325H, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201, or by telephone at (202) 245-9855.

MARY JANE CALAIS,
Staff Director, Student Financial Assistance Study Group.

[FR Doc.77-13582 Filed 5-11-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-77-753]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Grantee Performance Reports

AGENCY: Office of Community Planning and Development, Department of Housing and Urban Development.

ACTION: Notice soliciting comments on Grantee Performance Report.

SUMMARY: HUD is soliciting comments concerning the utilization and improvement of its Grantee Performance Report in connection with the Community Development Block Grant Program.

DATE: Comments are due by June 1, 1977.

ADDRESS: Room 7276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Earl Kunkel, phone number (202) 755–6300.

SUPPLEMENTARY INFORMATION: Section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)) establishes the requirement that recipients of community development block grants under Title I of the Act submit an annual performance report to the Department of Housing and Urban Development. That section reads as follows:

> Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each grantee shall submit to the Secretary a performance report concerning the activities carried out pursuant to this title, together with an assessment by the grantee of the relationship of those activities to the objectives of this title and the needs and objectives identified in the grantee's [application] * * *.

In response to Section 104(d), the Department established a series of reporting forms called the Grantee Performance Report (GPR) which is required to be submitted at least 30 days, but not more than 60 days, prior to submission of an annual entitlement application. Discretionary grantees are required to submit a GPR either upon completion of approved activities or prior to submission of an application for a subsequent discretionary grant.

The GPR was designed to serve three different levels or types of needs. First, the GPR was designed to help citizens in units of general local government know and understand what is being done with community development block grants and what progress is being made, and to help meet program management needs of local officials.

Second, the GPR is used by HUD field staff to evaluate recipients' performance in carrying out block grant programs. The GPR was designed to report on progress in carrying out approved activities, including actual expenditures per activity and actual beneficiaries—both of which may have varied from that indicated in the application. In addition, it is designed to report on compliance with statutory and regulatory requirements, block grant performance standards, and assurances.

Third, the GPR was designed as a principal means for collecting data for national evaluation of the block grant program and for reporting on the program to the Congress and the public. In this regard, separate reporting requirements normally associated with Federal grant programs, such as fiscal reports and physical progress reports, were not established.

The present GPR forms were first required in connection with applications submitted in Fiscal Year 1976 and the GPR covered approximately the first eight months of the first program year. Because of the late date that the forms were first made available, not all entitlement applicants used the present forms in Fiscal Year 1976. All entitlement applicants are using the present forms for Fiscal Year 1977 applications and the period covered by the report is from the inception of the program to the date of the report, approximately 18 to 20 months.

The Department is now soliciting public comment on the GPR to determine whether changes and improvements may be needed. Comments are requested from local officials and interested persons and organizations on how the GPR may better serve local objectives and needs. Comments should be directed to either or both of the following objectives: better serving the needs of citizens and local officials for information on the block grant program, and simplifying grantee reporting, consistent with statutory requirements.

Interested persons may obtain copies of the report forms from any HUD Area or Regional Office.

In developing comments, respondents are requested to give consideration to the following items.

When Is the Most Appropriate Time To Submit the GPR?

1. Prior to submission of the application. Block grant regulations currently require the GPR to be submitted at least 30 days, but not more than 60 days, prior to submission of the application.

2. Concurrently with submission of the application. This was the policy for submission of GPR's in Fiscal Year 1976.

3. At the end of the program year. The GPR could be required 30, 60 or 90 days after completion of the program year.

4. At fixed dates. The GPR could be required as of June 30, or December 31, for instance, for all recipients regardless of the timing of a particular recipient's program year.

5. At different times for different elements of the report. The report on financial matters or progress on planned activities for instance, could be submitted at a different time from reporting on compliance with program requirements.

What Should Be the Basis and Reporting Period of the GPR?

1. The most recent approved application. The report could cover the previous year's Community Development Program and Housing Assistance Plan (HAP). This would entail an activity-by-activity comparison of actual accomplishment against the most recent application.

2. All approved applications from the inception of the program. This is the format for the report required in Fiscal Year 1977. This entails an activity-by-activity comparison of accomplishment against all previously approved applications, excluding only those activities previously reported as completed or deleted.

3. Program accomplishment without regard to year of approval. This would not entail an activity-by-activity comparison against any particular application but would require reporting any activities carried out during the reporting period which are included in any previous year's application.

4. Different reporting periods for different activities. For instance, some activities could be reported on a cumulative basis whereas other activities could be reported on a program year basis.

What Should the Content of the GPR Include?

1. What are the best indicators of progress in accomplishing approved activities? Should the GPR focus on particular activities as indicators of progress? If so, which ones?

2. What are the best indicators of progress in accomplishing approved HAP's? Should the report be based on one-year HAP goals, three-year HAP goals, or both?

3. How should compliance with program requirements, such as civil rights and equal opportunity, environment, relocation and labor standards, be best demonstrated? Can reports prepared for other programs or Federal agencies be activities? Should the GPR focus on par- utilized for the black grant program?

4. To what extent should the report include narrative statements as opposed to statistical tables or forms? To what extent is it necessary or appropriate to explain problems or delays encountered, revisions made, or particularly noteworthy accomplishments?

Other Items

1. Should separate reporting requirements be established for discretionary grantees? What should be the content of such reports, the timing, or the frequency?

2. Would different reporting requirements for urban counties facilitate improved local program management and increase citizen understanding of the program?

3. Should there be specific requirements for publication, distribution, or access to the GPR? Should submission of the GPR to A–95 clearinghouses be mandatory or optional?

All comments and suggestions pertaining to the above issues as well as to any other GPR-related issues which are received before June 1, 1977, will be carefully considered. Comments should be addressed to:

Assistant Secretary for Community Planning and Development, Attention: Program Standards Division, Room 7276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Issued at Washington, D.C. on May 5, 1977.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc.77-13511 Filed 5-11-77;8:45 am]

Federal Disaster Assistance Administration

[Docket No. NFD-477]

LOUISIANA

Declaration of Disaster Areas

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FDAA-534-DR), dated May 2, 1977, and related determinations.

DATED: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 2, 1977, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding beginning about April 20, 1977, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Louisiana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle, FDAA Region VI, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas to have been adversely affected by this declared major disaster.

The Parishes of:

Ascension	Livingston
East Baton Rouge	St. Landry
East Feliciana	St. Martin
Lafayette	Tangipahoa

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13529 Filed 5-11-77;8:45 am]

[Docket No. NFD-476]

TENNESSEE

Declaration of Disaster Area

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Tennessee (FDAA-533-DR), dated April 29, 1977, and related determinations.

DATED: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 29, 1977, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe storms and flooding beginning about April 4, 1977, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Tennessee.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas to have been adversely affected by this declared major disaster:

The Counties of:

Anderson	Hancock
Campbell	Roane
Claiborne	Scott

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13531 Filed 5-11-77;8:45 am]

[Docket No. NFD-475]

OREGON

Declaration of Disaster Areas

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Oregon (FDAA-3039-EM), dated April 29, 1977, and related determinations.

DATED: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development Washington, D.C. 20410, (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 29, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Oregon is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Oregon.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. William H. Mayer, FDAA Region X, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Gilliam	Lake
Harney	Malheur
Klamath	Sherman

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13532 Filed 5-11-77;8:45 am]

New Communities Administration

[Docket No. N-77-764]

JONATHAN NEW COMMUNITY PROJECT

Intent to Issue an Environmental Impact Statement

The U.S. Department of Housing and Urban Development, New Communities Administration Washington, D.C. intends to issue a Draft Environmental Impact Statement (EIS) for the Jonathan New Community project located in Carver County/Chaska, Minnesota.

Jonathan is located approximately 25 miles south of Minneapolis. More specifically, the project area lies within the City of Chaska and the Township of Laketown in Carver County, Minnesota.

As a result of the project's severe financial difficulties, the New Communities Development Corporation (NCDC) Board of Directors is contemplating a number of alternative acquisition and disposition/development options for the Jonathan New Community project. The EIS will evaluate the environmental impact of these alternative actions for the NCDC Board's consideration together with other factors in determining what alternative action to pursue. These alternative actions include:

1. *Alternative I—the "Non-Development" Alternative.*—This alternative assumes that the New Communities Administration (NCA) will be unsuccessful in securing a developer for the project and consequently no new development will be undertaken and the project will be disposed of. This alternative would limit the project to the existing development comprising about 414 acres, 944 housing units, some commercial, industrial, parks and recreation facilities and about 2,860 people.

2. *Alternative II.*—This alternative assumes additional development to the extent of filling in vacant lots within the existing platted property. It would produce a development comprising about 665 acres, 1,800 housing units, commercial, industrial, parks and recreation and school facilities and about 5,670 people over 5 years.

3. *Alternative III–the "Village I" Alternative.*—This alternative assumes completion of Village I. It would produce a development comprising about 918 acres, 2,532 housing units, commercial, industrial, parks and recreation and school facilities and about 7,773 people 10 years.

4. *Alternative IV—the "Infrastructure" Alternative.*—This alternative assumes that existing infrastructure will be utilized to its optimum level. It would produce a development comprising about 1,653 acres, 5,272 housing units, commercial, industrial, parks and recreation and school facilities and about 15,816 people over 20 years.

5. *Alternative V—the "Single Family" Alternative.*—This alternative assumes that development of Jonathan will be composed of a number of small-scale, private residential planned unit developments. It would produce a development comprising about 4,000 acres, 13,402 housing units, commercial, industrial, parks and recreation and school facilities and about 40,200 people over 30 years.

6. *Alternative VI—the Original Title VII Approved Project.*—This alternative assumes continuing development of the Jonathan project as approved by HUD in 1970. It would produce a development comprising about 8,194 acres, 15,504 housing units, commercial, industrial, parks and recreation and school facilities and about 50,000 people over 20 years.

Copies of the Draft EIS will be available on or around June 2, 1977. The comment period on the Draft EIS will be 45 calendar days.

Comments concerning the subject of this notice are invited from all affected and interested parties.

Please send comments by May 27, 1977 to:

Earl DeMaris, Deputy Administrator for Project Support and Development, Attn: Leo Stein, U.S. Department of Housing and Urban Development, New Communities Administration, 451 7th Street SW., Room 7134, Washington, D.C. 20410, Telephone 202-755-6092.

Issued in Washington, D.C., May 5, 1977.

Dated: April 28, 1977.

EARL DEMARIS,
Acting Deputy General Manager and Administrator, New Communities Administration.

Dated: April 11, 1977.

FRANCIS G. HARES,
Concurrence, Office of Environmental Quality.

GRANT E. MITCHELL,
Concurrence, Office of General Counsel.

[FR Doc.77-13733 Filed 5-11-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-12926]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The General Services Administration, on April 22, 1977, filed application, Serial No. AA-12926, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws and mineral leasing laws, subject to valid existing rights:

A tract of land in section 14, T. 28 S., R. 53 E., Copper River Meridian, Alaska, described as follows:

Beginning at International Boundary Monument No. 146, Latitude 59°27'02.511" N., Longitude 136°21'38.468" W.; thence N. 64°15'00" E. along the International Boundary of Canada and the United States, a distance of 17.09'; thence S. 72°05'15" E. along the southerly right-of-way of the Haines Highway, a distance of 86.91'; thence S. 64°15'00" W.—652.39' to a point on the meander line of the north shore of Klehini River; thence N. 81°16'15" W.—105.99' to a monument on the northerly shore of Klehini River on the International Boundary dividing Canada and the United States; thence N. 64°15'00" E., along the aforementioned International Boundary Line a distance of 659.80' to Boundary Monument No. 146, the point of beginning.

Containing 0.92 of an acre.

The applicant agency desires that the lands be withdrawn and reserved for a border station. These lands are presently withdrawn by Proclamation No. 1196 of May 3, 1912 as a border reserve, and the effect of this proposed order would be to transfer administrative jurisdiction over them to General Services Administration.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before June 22, 1977.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, on or before June 22, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 7252.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner termi-

nated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc.77-13575 Filed 5-11-77;8:45 am]

[Serial Number A 9973]

ARIZONA

Proposed Withdrawal and Reservation of Lands for Military Purposes

The United States Army, Corps of Engineers, on behalf of the Department of Defense, has filed application A 9973 on April 11, 1977, for the withdrawal of lands described below from settlement, sale, location or entry under the public land laws, including the mining and mineral leasing laws and disposal of materials under the Act of July 31, 1947, as amended (30 U.S.C. 601,602), except such lands and resources shall be subject to such use, appropriation or disposition as the Secretary of the Interior shall determine to be consistent with Executive Order 8038, of January 5, 1939 and Public Land Order 5493 of May 21, 1975, with the approval of Secretary of Defense.

The applicant desires to continue using the lands already included in the Luke-Williams Air Force Range, described below as Area "A" and "B" for defense purposes in training aircraft pilots by the United States military forces. Lands described below in Area "C" lie outside the existing range and will be used in support of the Luke-Williams range training program as a safety buffer zone to preclude inadvertent incidents over off-range lands.

On or before June 13, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (hereinafter referred to as the Act), an opportunity for public hearing is hereby afforded. Anyone who desires a public hearing on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before June 13, 1977. If a public hearing is scheduled, notice will be published in the FEDERAL REGISTER giving the time and place of such hearing.

All of the Federal lands described in Area "A" and "B" are presently segregated from operation of the public land laws by virtue of Public Law 87-597 of August 24, 1962 (Luke-Williams Air Force Range) which Public Law will expire August 23, 1977. The lands described in Area "A" are also segregated to the extent provided by Executive Order 8038 of January 25, 1939 and Public Land Order 5493 of March 21, 1976 (Cabeza Prieta National Wildlife Refuge).

Effective as of May 12, 1977, all of the lands described below in which the United States has an interest in or which may be acquired by the United States in the future by exchange or acquisition, shall be segregated from entry as specified above for a period of two years unless the application is approved or rejected prior to that date. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

The applicant will be required to prepare an environmental assessment and/or environmental impact statement pursuant to the Environmental Policy Act of 1969, 43 U.S.C. 4321.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will submit a legislative proposal to the Congress of the United States for its consideration to determine whether the lands will be withdrawn as requested by the applicant agency.

The lands involved in the application are described below and are delineated on Map designated as "Luke Air Force Range, Public Land Withdrawal," Drawing No. 11-M-169 which is on file in the Arizona State Office, Bureau of Land Management, in case file A 9973.

All correspondence in connection with this withdrawal should be directed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

GILA AND SALT RIVER MERIDIAN, ARIZONA

AREA "A"

T. 14 S., R. 8 W., unsurveyed
Secs. 19 to 21 and 28 to 33, incl.,
T. 15 S., R. 8 W., unsurveyed
Secs. 4 to 9, incl., Secs. 16 to 21, incl., and Secs. 28 to 33, incl.,
T. 16 S., R. 8 W., unsurveyed
Secs. 4 to 9, incl., Secs. 16 to 21 incl., and Secs. 28 to 33, incl.,
T. 17 S., R. 8 W., unsurveyed
Secs. 4, 5, 6, 8, and 9,
T. 14 S., R. 9 W., unsurveyed
Secs. 16 to 36, incl.,
T. 15 S., R. 9 W., unsurveyed
T. 16 S., R. 9 W., unsurveyed
T. 17 S., R. 9 W., unsurveyed
T. 14 S., R. 10 W., unsurveyed
Secs. 13 to 36, incl.,
T. 15 S., R. 10 W., unsurveyed
T. 16 S., R. 10 W., unsurveyed

Containing 140,570.00 acres more or less.

AREA "B"

T. 8 S., R. 12 W.,
T. 9 S., R. 12 W.,
T. 8 S., R. 13 W.,
Secs. 1 to 4 incl.,
Sec. 5, Lot 1 and S½,
Sec. 6, SE¼SE¼,
Sec. 7 to 36, incl.
T. 9 S., R. 13 W.,
T. 8 S., R. 14 W.,
Sec. 11, S½SE¼,
Sec. 12, S½NE¼ and S½,
Secs. 13 and 14,
Sec. 15, S½NE¼ and S½,
Sec. 16, S½SW¼ and SE¼,
Secs. 19 to 36 incl.
T. 9 S., R. 14 W.,
T. 8 S., R. 15 W.,
Secs. 33 to 36, incl.
T. 9 S., R. 15 W.,
T. 9 S., R. 16 W.,
Secs. 1 and 2,
Secs. 7 to 36, incl.
T. 9 S., R. 17 W., partially surveyed,
Secs. 12 to 16, incl.,
Sec. 17, S½,
Secs. 19 to 36, incl.
T. 9 S., R. 18 W.,
Sec. 21, SE¼,
Sec. 22, S½,
Secs. 23 to 36, incl.
T. 9 S., R. 19 W.,
Secs. 25 to 36, incl.
T. 9 S., R. 20 W.,
Secs. 25 to 36, incl.
T. 10 S., R. 20 W., unsurveyed,
Secs. 4 to 10, incl.,
Secs. 14 to 23, incl.,
Secs. 26 to 36, incl.
T. 9 S., R. 21 W.,
Secs. 25 to 36, incl.
T. 10 S., R. 21 W.
T. 11 S., R. 21 W.
T. 12 S., R. 21 W.
T. 9 S., R. 22 W.,
Secs. 25 to 28, incl.,
Sec. 29, E½, E½NW¼ and SW¼,
Secs. 32 to 36, incl.
T. 10 S., R. 22 W.,
Secs. 1 to 5, incl.,
Sec. 6, E½,
Secs. 7 to 36, incl.
T. 11 S., R. 22 W.
T. 12 S., R. 22 W.

Containing 345,090.58 acres more or less.

AREA "C"

T. 6 S., R. 8 W., partially surveyed,
Sec. 26, S½NW¼NW¼, SW¼NW¼ and SW¼,
Secs. 27 to 31, that portion lying south of the Southern Pacific Railroad Right-of-Way,
Secs. 32, 33, and 34, incl.,
Sec. 35, W½, W½SE¼.
T. 6 S., R. 9 W.,
Sec. 25, that portion lying south of the Southern Pacific Railroad Right-of-Way.
Secs. 33, 34, and 35, that portion lying south of the Southern Pacific Railroad Right-of-Way.
T. 7 S., R. 8 W.,

Sec. 2, Lots 2, 3, and 4, S½NW¼, SW¼ NE¼ and S½.
Secs. 3 to 11, incl.,
Sec. 12, S½SW¼NW¼ and W½SW¼.
T. 7 S., R. 9 W.,
Secs. 1 to 4, and Secs. 9 to 12 incl.,

Containing 17,131.51 acres more or less.

The three areas described above aggregate 502,792.09 acres, more or less, in Maricopa, Pima and Yuma Counties, Arizona.

Dated: May 5, 1977.

ROBERT O. BUFFINGTON,
State Director.

[FR Doc.77-13576 Filed 5-11-77;8:45 am]

[NM 30504, 30505, 30508, 30509 and 30511]

NEW MEXICO

Applications

MAY 4, 1977.

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), El Paso Natural Gas Company has applied for eight 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 25 E.,
Sec. 9, S½SE¼.
T. 21 S., R. 27 E.,
Sec. 22, SW¼NE¼, E½NW¼ and N½SE¼;
Sec. 27, SW¼NW¼, N½SW¼ and NW¼ SE¼.
T. 20 S., R. 28 E.,
Sec. 12, E½SE¼;
Sec. 13, NE¼NE¼;
Sec. 21, NW¼NE¼.

These pipelines will convey natural gas across 2.410 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13577 Filed 5-11-77;8:45 am]

[NM 30514]

NEW MEXICO

Application

MAY 5, 1977.

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, 1937 (87 Stat. 576), Anadarko Production Company has applied for one 2½-inch pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 30 E.,
Sec. 29, SW¼NE¼, SE¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 30, SE¼SE¼;
Sec. 31, N½NE¼, SW¼NE¼, and SE¼ NW¼.

This pipeline will convey water across 1.597 miles of natural resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13578 Filed 5-11-77;8:45 am]

[OR 7762 (Wash.)]

WASHINGTON

Order Providing for Opening of Public Land

MAY 3, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1970), the following land has been reconveyed to the United States:

WILLIAMETTE MERIDIAN

T. 23 N., R. 23 E.,
Sec. 10, S½, excepting and excluding that parcel of land within the railroad right-of-way in the N½SW¼, SE¼SW¼, and SE¼ containing 34 acres, more or less;
Sec. 11, SW¼NW¼, SW¼, and SW¼SE¼, excepting and excluding that parcel of land within the railroad right-of-way in the S½SW¼ and SW¼SE¼ containing 13.50 acres, more or less;
Sec. 13, W½W½, excepting and excluding that parcel of land within the railroad right-of-way in the SW¼SW¼ containing 8 acres, more or less;
Sec. 14, excepting and excluding that parcel of land within the railroad right-of-way in the W½NE¼, SE¼NE¼, and E½SE¼ containing 35 acres, more or less;
Sec. 15;
Sec. 22;
Sec. 23;
Sec. 24, SW¼ and SW¼SE¼;
Sec. 25, N½.

The area described contains, after making the aforesaid exceptions, 3,709.50 acres in Douglas County.

2. The subject land consists of one large parcel located approximately 14 miles southeast of the Town of Waterville. Elevation ranges from 1,000 to 2,400 feet above sea level, and the topography is rolling to steep and generally sloping towards Douglas Creek which crosses the northwest portion of the parcel. Vegetation consists primarily of native grasses. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m. June 8, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.77-13579 Filed 5-11-77;8:45 am]

[Wyoming 57619-Amdt.]

WYOMING

Application

MAY 4, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C 185), the Marathon Pipe Line Company of Casper, Wyoming, filed an application for an amendment to existing right-of-way Wyoming 57619 to construct a 3-inch natural gas pipeline for the purpose of transporting natural gas across the folowing described national resource lands:

SIXTH PRINCIPAL MERIDAN, WYOMING

T. 47 N., R. 92 W.,
Lot 4, SW¼NW¼, sec. 1.

Marathon Pipe Line Company seeks to amend its existing right-of-way No. W-57619 for the primary purpose of constructing, operating, maintaining, and removing an extension of its common carrier pipeline gathering system for the transportation of oil and other synthetic liquid fuels, and related facilities. The extension to the existing right-of-way will commence at a point in section 1, T. 47 N., R. 92 W., and extend to a point in section 36, T. 48 N., R. 92 W., all in Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13580 Filed 5-11-77;8:45 am]

Bureau of Reclamation

[INT-FES-77-12]

DOLORES PROJECT, COLO.

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a proposed water resource project that would develop water for irrigation and municipal and industrial uses in southwest Colorado. It would also benefit fisheries, recreation, and flood control.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-9247.

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.

Division of Engineering Support, Technical Services and Publications Branch, E. & R. Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3006.

Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, Telephone (801) 524-5404.

Western Colorado Projects Office, Durango Planning Field Division, Bureau of Reclamation, 835 Second Avenue, P.O. Box 640, Durango, Colorado 81301, Telephone (303) 247-0247.

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 9, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-13536 Filed 5-11-77;8:45 am]

Geological Survey

MARATHON OIL CO.

Appeals From Notices Issued by Area Oil and Gas Supervisors' Offices

APRIL 30, 1977.

GS-O&G: Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL-4)—Royalty Payment on Oil and Gas Lost

Marathon Oil Company: Appeals from Notices issued November 15, 1974, by Area Oil and Gas Supervisors' Offices in Anchorage, Alaska; Casper, Wyoming; Los Angeles, California; Roswell, New Mexico; Tulsa, Oklahoma; and Washington, D.C.

Appellant: Affirmed.

By separate notices of appeal dated December 16, 1974, or December 17, 1974, Marathon Oil Company appealed from the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL-4) issued by the Area Oil and Gas Supervisors' Offices in Anchorage, Alaska; Casper, Wyoming; Los Angeles, California; Roswell, New Mexico; Tulsa, Oklahoma; and Washington, D.C. Said notices of appeal requested that appellant be allowed additional time within which to file additional statements of reasons and briefs and arguments of the facts and laws, that the Director grant the opportunity for oral argument, and that the actions of the Area Oil and Gas Supervisors be stayed pending final determination of the appeals.

By separate letters of January 9, 1975, Acting Director Henry W. Coulter advised appellant's attorneys in Marathon Oil Company's Casper, Wyoming, and Houston, Texas, Division Offices that their requests for additional time to file additional or supplemental statements in support of their appeals were granted, that their requests for suspension of compliance with the notices were denied, and that a determination would be made at a later date regarding the allowance of oral arguments in connection with their appeals. Acting Director Coulter's letter regarding Marathon Oil Company's appeal from the notice issued by the Area Oil and Gas Supervisor, Los Angeles, California, was dated January 23, 1975.

By letter dated February 26, 1975, and received in the Office of the Director, U.S. Geological Survey, after close of business on March 4, 1975, Marathon Oil Company's Division Attorney, Casper, Wyoming, submitted his supplemental written showing and arguments on the facts and laws and renewed the motion for oral argument. By letter of February 27, 1975, Marathon Oil Company's Division Attorney, Houston, Texas, requested that the supplemental written showing and argument of facts and laws submitted by the Marathon Oil Company's Casper Division be considered applicable to the appeals submitted by the Houston Division and renewed his request for the opportunity for oral argument. The deadline for filing said document established by Acting Director Henry W. Coulter's letter of January 23, 1975, pursuant to 30 CFR 290.5, was February 28, 1975.

By letter dated June 17, 1975, Acting Director Montis R. Klepper granted Marathon Oil Company's May 30, 1975, request for additional time within which to furnish additional supplemental material in support of its appeal from NTL-4.

Appellant's letter of June 27, 1975, submitted additional supplemental material in support of its appeal and requested that the supplemental brief submitted by Amoco Production Company be adopted and incorporated by reference in Marathon Oil Company's second supplemental statement.

Marathon Oil Company's notices of appeal present the contentions that:

I. The notices appealed from violate the plain meaning of the applicable statute and regulations.

II. The notices appealed from are inconsistent with applicable lease and unit contract provisions.

III. The notices appealed from constitute a reversal of historic, consistent, administrative construction and interpretation of the applicable provisions of the Mineral Leasing Act of 1920, as amended.

Marathon Oil Company's "Supplemental Written Showing and Arguments on the Facts and Laws Concerning the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases, Alaska Area, Mid-Continent Area, Northern Rocky Mountain Area, Southern Rocky Mountain Area, and Pacific Area. NTL-4, issued by the Oil and Gas Supervisors, Alaska Area, Mid-Continent Area, Northern Rocky Mountain Area, and Pacific Area, dated November 15, 1974, and Relating to Royalty Payment on Oil and Gas Lost" presented the following arguments in support of its appeals as consolidated in said supplemental showing:

I. NTL-4 and its background memoranda reach conclusions that are violative of the plain meaning of the statute and regulations.

II. NTL-4 and its background memoranda ignore the rules of statutory construction as well as the legislative history of the Act.

III. NTL-4 mandates royalty payments in contradiction of the Government's own lease terms and unit contract provisions.

IV. NTL-4 is an abortive attempt to displace an historic and consistent interpretation of the Act, in violation of the doctrine of practical construction.

V. NTL-4 is an improper and impermissible method of amending a substantive regulation and violates the Administrative Procedure Act.

Marathon Oil Company's second supplemental statement, dated June 27, 1975, presents the arguments that:

I. NTL-4 is an abortive attempt to displace an historic and consistent interpretation of the Act, in violation of the doctrine of practical construction; and

II. NTL-4 is an attempt to impose penalties upon lessees beyond those enacted by Congress.

We do not find appellant's arguments convincing.

Although certain of the aforequoted arguments are repetitious of one another, our comments with respect to Marathon Oil Company's individual arguments are presented in the order that each argument was made. Said comments are as follows:

ARGUMENTS CONTAINED IN NOTICES OF APPEAL

I

The notices appealed from violate the plain meaning of the applicable statute and regulations.

A basic rule of statutory construction is that the "meaning of a statute must, in the first instance, be sought in the language in which the Act is framed." *Caminetti* v. *United States*, 242 U.S. 470, 485 (1917); *accord Flora* v. *United States*, 357 U.S. 63, 65 (1958).

A search for the meaning of the Mineral Leasing Act of February 25, 1920, and the amendments thereto, must commence with an examination, comparison, and analysis of the language of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as originally enacted. Such study together with a study of the effects of the various amendments that have been enacted during the ensuing 57 years is contained in the Solicitor's October 4,

1976, Opinion which served as the basis for the conclusions presented on the subject in Secretary of the Interior Thomas S. Kleppe's letter of October 4, 1976, to the General Counsel for the United States General Accounting Office. The second conclusion presented in Secretary Kleppe's letter stated:

> Royalty is due and payable "in amount or value" of all oil or gas, or both, that is withdrawn from a reservoir which is subject to a Federal oil and gas lease. More specifically, royalty is due on vented and flared gas, and gas or oil, or both, leaked, spilled, or used in producing operations, and lease terms and regulations to the contrary are invalid.

The Secretary's October 4, 1976, letter together with the Solicitor's Opinion (M–36888) of October 4, 1976, as modified by the January 19, 1977, and the March 9, 1977, addenda thereto, are enclosed herewith and made a part of this decision as completely as if the contents of those documents were contained within the body of this decision.

II

The notices appealed from are inconsistent with applicable lease and unit contract provisions.

As previously noted, the conclusions in Secretary Kleppe's letter of October 4, 1976, include the conclusion that lease terms and regulations that are contrary to the requirements of the statute are invalid. This conclusion was further supported and elaborated on in the March 9, 1977, addendum (M–36888 Supp. II) to the October 4 Solicitor's Opinion (M–36888). The second conclusion contained in the Solicitor's Opinion of October 4, 1976, at 2 reads as follows:

> In the absence of a specific statutory bar such as in sections 18 and 19 of the Mineral Leasing Act, royalty is due "in amount or value" on all production from a Federal oil and gas lease, including vented and flared gas, and gas or oil leaked, spilled, or used in producing operations.

It goes without saying that any contractual terms contained in an approved unit agreement that are contrary to statutory requirements are also invalid. Simply stated, the approval of a unit agreement permits the payment of royalty due under a Federal oil and gas lease on the basis of constructive production, i.e., allocated production, in lieu of the payment of royalty on the basis of actual production from the leasehold. We find no basis for suggesting that "production" as used in unit and cooperative agreements can have a meaning that differs significantly from the meaning of that word as used in the Mineral Leasing Act of February 25, 1920, and the amendments thereto.

The Solicitor's Opinion of October 4, 1976, concludes at 2 that "production" means all oil and gas withdrawn from a reservoir. At 10, the Solicitor's Opinion concludes that the Mineral Leasing Act of February 25, 1920, as amended, requires the Department to collect royalty on all production, including oil and gas used for production purposes and oil and gas unavoidably lost, and that inclusion of an exemption for this purpose in either a lease or departmental regulation, except to the now dormant sections 18 and 19 of the Mineral Leasing Act, *is contrary to the enabling statute* and *is a nullity*. (Italic added) (*Manhattan General Equipment Co.* v. *Commissioner*, 297 U.S. 129, 134 (1936); *McDade* v. *Morton*, 353 F. Supp. 1006, 1012 (D.D.C. 1973); *Union Oil Co. of California* v. *Morton*, 512 F. 2d 743, 748 (9th Cir. 1975))

III

The notices appealed from constitute a reversal of historic, consistent administrative construction and interpretation of the applicable provisions of the Mineral Leasing Act of 1920, as amended.

It is not clear why the Department failed to fully recognize the clear distinctions contained in the leasing provisions of the Act.

The first lease form published by the Department of the Interior, 47 I.D. 447 (1920), incorporated the special relief constraints unique to leases that were to be issued in exchange for valid mining claims "claimed and possessed prior to July 3, 1910, and continuously since by claimant or his predecessor in interest under the pre-existing placer mining law to any oil or gas bearing land upon which there has been drilled one or more oil or gas wells to discovery embraced in the Executive order of withdrawal issued September 27, 1909 * * *."

Since the first leases to be issued under the Mineral Leasing Act of February 25, 1920, would be issued under the relief provisions of section 18, the drafters of the first lease did, as one would expect, incorporate royalty provisions consistent with the unique relief provisions of section 18.

The royalty provisions of the first lease form stated that the lessee was to pay:

> * * * a royalty of _ per centum of the value of oil or gas produced from the land leased herein (except oil or gas used for production purposes on said lands or unavoidably lost), or on demand of the lessor, _ per centum of the oil or gas produced (except oil or gas used for producton purposes or unavoidably lost) * * *. Section 2(c) 47 I.D. at 488.

The drafters of this first lease form may have anticipated that leases issued under provisions of the Mineral Leasing Act other than section 18 would be prepared on the same standard lease form but with the language enclosed in parentheses struck from leases issued under sections 14, 15, 17, and 20. It was and is common practice to use a "standard" contract form and to strike out language that is inappropriate in the specific situation.

In any event, the Department's error was compounded in the (1925) decision cited by appellant. Said decision is addressed at 6 in the Solicitor's Opinion of October 4, 1976. The Solicitor concluded at 7 that:

> M. P. Smith, 51 I.D. 251 (1925) and Computation of Royalty under Section 15, 51 I.D. 283 (1925), are incorrect and that the application of the exemption in sections 18 and 19 to other sections is wrong.

Since lease provisions and departmental regulations which permit the exclusion of oil and gas used for production purposes or unavoidably lost from the volume of production used for computing the royalty due the United States are nullities, the past actions of the Department and its officials in recognition of those provisions were unauthorized and cannot serve to reduce the rights of the United States (*Atlantic Richfield Company* v. *Walter J. Hickel, Secretary of the Interior, et al.*, 432 F. 2d 587 (10th Cir. 1970)). See also, Effect of October 4, 1976, Solicitor's Opinion M–36888 (M–36888 Supp. II).

ARGUMENTS CONTAINED IN MARATHON OIL COMPANY'S SUPPLEMENTAL WRITTEN SHOWING AND ARGUMENT ON THE FACTS AND LAWS

I

NTL–4 and its background memoranda reach conclusions that are violative of the plain meaning of the statute and regulations.

This contention is similar to that presented in I of Marathon Oil Company's notices of appeal and is answered in our response to that argument.

II

NTL–4 and its background memoranda ignore the rules of statutory construction as well as the legislative history of the Act.

Such, of course, is not the case. The Solicitor's October 4, 1976, Opinion shows that with certain exceptions, the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL–4), issued November 15, 1974, by the U.S. Geological Survey's Area Oil and Gas Supervisors, are in conformance with the rules of statutory construction as well as the legislative history of the Mineral Leasing Act of February 25, 1920, and the amendments thereto.

As previously indicated, the October 4, 1976, Solicitor's Opinion at 10 concludes that the Mineral Leasing Act requires the Department to collect royalty on all production, including oil and gas used for production purposes and oil and gas unavoidably lost.

It should also be noted that for the Secretary to grant such an exemption under leases issued pursuant to sections 14, 15, 17, and 20 of the Mineral Leasing Act would, in essence, serve to reduce the royalty due the United States below the minimum per centum specified in the law.

It is quite clear from discussions during the consideration of S. 2775 of the 66th Congress, the bill which eventually became the Mineral Leasing Act of February 25, 1920, that the per centum royalty specified was a minimum amount establishing a floor for the amount of royalty that the Secretary might charge.

During the section-by-section consideration of S. 2775 which began in the House of Representatives on October 25, 1919, and ended with passage of an amended version of the bill on October 30, 1919, Chairman N. J. Sinnott of the Committee on Public Lands, House of

Representatives, and other Congressmen, such as Congressman Ferris of Oklahoma, repeatedly explained that the bill provided for a minimum royalty of ⅛ or 12½ per centum, with the maximum royalty to be established by the Secretary of the Interior. At 7512, Congressional Record, October 25, 1919, Congressman Ferris of Oklahoma summarized the scrutiny given the contents and drafting of S. 2775 as follows:

> * * * Your Committee on Public Lands for eight years has been working on this. Your Interior Department has been working on it. Your Geological Survey has been working on it. Your Department of Justice has been working on it. * * * Every line, yes, every section, has been scrutinized by lawyer and layman; by those in and out of Congress, by experts and those who feel they are experts. * * *

At 7520, Congressman Taylor of Colorado explained:

> The amendments that we on the Public Lands Committee have put on this Senate bill make its provisions much more harsh and drastic on prices and royalties and in many other respects, than it was as it passed the Senate.
>
> * * * * *
>
> Minimum royalties are in each instance prescribed, and the maximum are left to the discretion of the Secretary of the Interior.
>
> * * * * *
>
> After years of effort, I have succeeded in including in this bill a provision permitting all cities and towns to locate, open up, and operate municipal coal mines free of any charge or royalty.
>
> * * * * *

At 7537, Congressional Record, October 27, 1919, Chairman Sinnott in discussing a specific distinction in language stated:

> That language was put in with a great deal of consideration, and we would not like to change from "valuable" to "paying." There is quite a distinction. We are in line with the decisions of the courts as to what is a discovery, and I think it would be a very dangerous matter to experiment with this language at this time.

At 7603, Congressional Record, October 27, 1919, section 24 was amended to insure that in the issuance of sodium leases, the Secretary of the Interior could not assume that:

> * * * the failure of Congress to put into this provision the limitation which is put into the other might indicate an intention on the part of Congress that the last half should be leased for less than the minimum royalty.

The precise language added to prevent such a misunderstanding was added following the word "royalty" and read, "of not less than one-eighth of the amount or value of the production."

III

NTL–4 mandates royalty payments in contradiction of the Government's own lease terms and unit contract provisions.

This argument is comparable to that presented as argument II in the notices of appeal submitted by Marathon Oil Company and is adequately refuted in the discussion of said argument, *supra*.

IV

NTL–4 is an abortive attempt to displace an historic and consistent interpretation of the Act, in violation of the doctrine of practical construction.

This argument is essentially the same as that presented as Argument III in Marathon Oil Company's notices of appeal and is adequately refuted in the discussion of said argument, *supra*.

V

NTL–4 is an improper and impermissible method of amending a substantive regulation and violates the Administrative Procedure Act.

We know of no provision of the Administrative Procedure Act that permits, much less requires, that regulations that are contrary to law be honored pending amendment thereof in accordance with procedures that are followed in the promulgation and revision of regulations that conform with the law. It would have been an impropriety not to have issued NTL–4.

ARGUMENTS CONTAINED IN MARATHON OIL COMPANY'S SECOND SUPPLEMENTAL WRITTEN SHOWING OF ARGUMENT ON THE FACTS AND LAWS

I

NTL–4 is an abortive attempt to displace an historic and consistent interpretation of the Act in violation of the doctrine of practical construction.

As Marathon Oil Company points out in its discussion of the above-quoted argument, the issue was part of the arguments presented in its previous submittals. We believe that our discussions and those contained in the Solicitor's Opinion of October 4, 1976, refute the arguments presented in said submittals.

II

NTL–4 is an attempt to impose penalties upon lessees beyond those enacted by Congress.

The November 15, 1974, Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases, issued by the Area Oil and Gas Supervisors, imposed no penalty as Marathon Oil Company suggests in the above-quoted argument. Said argument also errs in that it fails to recognize the Secretary's authority to do any and all things necessary to carry out and accomplish the purposes of the Act (30 U.S.C. 189).

Since lease provisions and departmental regulations which permit the exclusion of oil and gas used for production purposes or unavoidably lost from the volume of production used for computing the royalty due the United States are nullities, the past actions of the Department and its officials in recognition of those provisions were unauthorized and cannot serve to reduce the rights of the United States (*Atlantic Richfield Company* v. *Walter J. Hickel, Secretary of the Interior, et al.*, 432 F. 2d 587 (10th Cir. 1970)).

It is noted that portions of the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL–4) issued November 15, 1974, by the Area Oil and Gas Supervisors of the Conservation Division, Geological Survey, do not conform entirely with the conclusions of the Solicitor's Opinion of October 4, 1976. Corrected notices will be issued in the near future.

Marathon Oil Company's appeal from the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL–4) issued November 15, 1974, by the Area Oil and Gas Supervisors' Offices in Anchorage, Alaska; Casper, Wyoming; Los Angeles, California; Roswell, New Mexico; Tulsa, Oklahoma; and Washington, D.C.; are therefore denied.

Since the points in contention are clearly understood and in our opinion are covered by specific provisions of the governing statutes, appellant's request for an opportunity to make oral argument in support of its appeal is denied.

The Secretary of the Interior has indicated his approval for the issuance of this decision as a final administrative action of the Department of the Interior. Therefore, this decision is final and not subject to appeal pursuant to 30 CFR Part 290.

Dated: May 5, 1977.

W. A. RADLINSKI,
Acting Director.

I concur:

CECIL D. ANDRUS,
Secretary of the Interior.

Response to February 17, 1976, request from the General Accounting Office: Interpretation of Mineral Leasing Act of 1920, and Outer Continental Shelf Lands Act Royalty Clause; M–36888, decided: October 4, 1976.

Oil and Gas Leases: Production—Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases—Words and Phrases.

"Production" as used in all Federal oil and gas leases includes all oil and gas withdrawn from a reservoir.

Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases.

In the absence of a specific statutory bar, such as is found in sections 18 and 19 of the Mineral Leasing Act of 1920, royalty is due in the "amount or value" of all production from a federal oil and gas lease, including vented and flared gas and gas or oil leaked, spilled or used in producing operations.

Oil and Gas Leases: Generally—Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases.

An assessment greater than the normal royalty charge may be required for oil and gas that are wasted.

M.P. Smith, 51 I.D. 251 (1925); Computation of Royalty under Section 15, 51 I.D. 283 (1925), overruled.

ADDENDUM A

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., October 4, 1976.

Memorandum.
To: Secretary.
From: Solicitor.
Subject: Response to February 17, 1976, request from General Accounting Office: Interpretation of Mineral Leasing Act of 1920 and Outer Continental Shelf Lands Act Royalty Clause.

This memorandum responds to a request dated February 17, 1976, by the General Accounting Office for a report on the views of

the Department of the Interior and to questions raised by appeals pending before the Director, Geological Survey, regarding the proper construction of the oil and gas royalty provisions of the Mineral Leasing Act of 1920, as amended and supplemented, 41 Stat. 437, 30 U.S.C. §§ 181-287 (1970), and the Outer Continental Shelf Lands Act, 67 Stat. 462, 43 U.S.C. §§ 1331-43 (1970) (referred to as OCS Act).

The relevant portions of the Mineral Leasing Act say that the lessee shall pay a percentage of the "amount or value of the production removed or sold from the lease." 30 U.S.C. §§ 226(b), (c), and (l), Act of August 8, 1946, 68 Stat. 583, amending the Mineral Leasing Act of 1920, as amended and supplemented. The corresponding provision of the OCS Act says that the lessee shall pay a percentage of the "amount or value of the production saved, removed or sold." 43 U.S.C. § 1137(a). The application of these royalty clauses to oil and gas sold, or to oil and gas removed from the leasehold for purposes of sale or transfer is unchallenged. In the last several years, the application of these royalty clauses to oil and gas that are vented or flared, used for production purposes on the leasehold, or unavoidably lost, has been the subject of considerable controversy.

Summary. My conclusions on the matter and the position I recommend to you for adoption by the Department of the Interior are:

1. "Production" as used in all Federal oil and gas leases includes all oil and gas withdrawn from a reservoir.

2. In the absence of a specific statutory bar such as in sections 18 and 19 of the Mineral Leasing Act, royalty is due "in amount or value" on all production from a Federal oil and gas lease, including vented and flared gas, and gas or oil leaked, spilled, or used in producing operations.

3. An assessment greater than the normal royalty charge may be required for oil and gas that are wasted.

I also recommend that these rulings apply beginning June 28, 1974 for leases issued under the OCS Act, and November 18, 1974, for leases issued under the Mineral Leasing Act.

Analysis of Royalty Requirements

The first step necessary to determine the proper interpretation of the royalty provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, is to define the meaning of the word "production" as it is used in those Acts.

As indicated in the summary I have concluded that "Production" means all oil and gas withdrawn from a reservoir.

A comparison of the language of sections 14, 15, 17, 18, 19, and 20 of the Mineral Leasing Act as originally enacted, and Sections 6 and 8 of the Outer Continental Shelf Lands Act strongly supports this conclusion. These Acts established several primary categories of oil and gas leases, each with separate and distinct statutory requirements relating to the royalty to be paid to the United States.

The common element in each of the royalty requirements in these acts is that royalty is due and payable to the United States "in amount or value of production." In only one instance does a statute exempt a portion of lease production from royalty payment.

Examining the development of the Mineral Leasing Act is helpful in resolving the questions addressed in this memorandum. The Mineral Leasing Act of 1920 created three separate classes of leasehold interests. First, it allowed certain holders of placer oil locations under the Mining Law of 1872, to exchange their unpatented mining claims for leases or prospecting permits under the new Act. Second, it gave certain types of agricultural entryman a preference right to a prospecting permit under the new Act. Third, it created a new way of obtaining mineral rights to oil and gas—through a prospecting permit or a competitive lease. For each of these new interests Congress specified what royalty the lessee should pay the Government.

For leases issued as the result of a discovery under a prospecting permit, Section 14 of the Mineral Leasing Act said:

* * * Such leases shall be for a term of twenty years upon a royalty of 5 per centum *in amount or value of the production* and the annual payment in advance of a rental of $1 per acre. * * * The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum *in amount or value of the production* * * * the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulation prescribe. (Emphasis added).

Section 15 of the Mineral Leasing Act instructed the Department what royalty a prospecting permittee had to pay before he applied for a lease and is significant because it sets forth in a complete and comprehensive way the elements that make up "production." Section 15 states:

That until the permittee shall apply for lease to the one-quarter of the permit area heretofore provided he shall pay to the United States 20 per centum of the gross value of *all oil or gas secured* by him from the lands embraced within his permit and sold *or otherwise disposed of or held by him for sale or other disposition.* (Emphasis added).

The royalty provision of Section 17 which covered competitive leasing of a known geological structure of a producing oil or gas field said:

* * * such leases to be conditioned upon the payment by the lessee of such bonus as may be accepted and of such royalty as may be fixed in the lease, which shall not be less than 12½ per centum *in amount or value of the production*, and the payment in advance of a rental of not less than $1 per acre per annum thereafter * * *. (Emphasis added).

For leases which were granted because a person had a location under the Mining Law of 1872, Congress provided in section 18 that a lease was to be issued:

* * * upon payment as royalty to the United States of an amount equal to *the value at the time of production* of one-eighth *of all the oil or gas already produced except oil or gas used for production purposes on the claim, or unavoidably lost*, * * * the claimant * * * shall be entitled to a lease thereon from the United States * * * at a royalty of not less than 12½ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim or unavoidably lost * * * (Emphasis added).

As a corollary to the exchange lease provided in Section 18, Section 19 provided for the exchange of rights under certain mining claims for prospecting permits or leases. Leases obtained under the provisions of Section 19 were to provide for a royalty of:

Not less than 12½ per centum of *all the oil or gas produced, except oil or gas used for production purposes on the claim, or unavoidably lost* * * * (Emphasis added).

Section 20 granted certain agricultural entrymen a preference right to a permit and to a lease and said:

* * * Leases executed under this section * * * shall provide for the payment of royalty of not less than 12½ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 14 hereof.

The distinct differences in the language used by Congress to describe royalty requirements for each of the different categories of leases indicates: (1) that the term "production" included all oil and gas withdrawn from a reservoir; and (2) that where Congress intended to require that royalty be based upon less than all "production" Congress included in the statute a specific exception (i.e., "except oil or gas used for production purposes on the claim, or unavoidably lost.")

If the term "production" did not include oil and gas lost through escape, i.e., spillage, venting etc. the specific exceptions contained in sections 18 and 19 of the Mineral Leasing Act would have no meaning. In order for oil or gas, or both, to be "excepted" from the requirement that a royalty be paid on it, that oil or gas, or both, must first be considered to be part of production from the leasehold.

The legislative history of the Mineral Leasing Act confirms the view that Congress intentionally made these distinctions. For example, amendments to sections 18 and 19 were discussed on the floor of the House. E.g., 57 Cong. Rec. 4489-90 (1919). Congress clearly realized it was imposing different royalty requirements for leases issued in exchange for relinquished mining claims from those imposed on other types of leases.

The Department failed, however, to fully recognize the distinctions contained in the Act. The first lease form published by the Department, 47 I.D. 447 (1920), incorporated the special constraint unique to leases that were to be issued in exchange for relinquishment of rights under valid mining claims. The royalty provisions of the first lease form stated that the lessee was to pay:

A royalty of ____ per centum of the value of oil or gas produced from the land leased herein (except oil or gas used for production purposes on said lands or unavoidably lost), or on demand of the lessor, ____ per centum of the oil or gas produced (except oil or gas used for production purposes or unavoidably lost) * * *. Section 2(c), 47 I.D. at 488.

The drafters of this first lease form may have expected that leases that would subsequently be issued under provisions of the Act other than Sections 18 and 19 would simply omit the language enclosed in parenthesis, but the omission was not made and the inappropriate language was included in leases issued pursuant to provisions of the Act other than sections 18 and 19.

The Department's error was compounded in a case involving the computation of royalty required under Section 15 of the Mineral Leasing Act of February 25, 1920. *Computation of Royalty under Section 15, Act of February 25, 1920*, 51 I.D. 283 (1925). Section 15, 41 Stat. 437, said: "That until the permittee shall apply for a lease to one-quarter of the permit area heretofore provided for he shall pay to the United States 20 per centum of the *gross* value of *all* oil or gas secured by him from the lands embraced within his permit and sold *or otherwise disposed of or held by him for sale or other disposition.*" (Emphasis added). Congress could hardly have expressed more clearly its intention to recoup royalties on all oil produced, regardless of how it was used. Congress stressed that the royalty applied to the "gross" value, to "all" oil, to oil and gas "otherwise disposed of" as well as "sold" and to "other disposition" as well as "held" oil. Despite the clear language of section 15, the Department concluded that payment of royalty under section 15 was not required for oil or gas used for production purposes on the permit lands or unavoidably lost. 51 I.D. at 283. Prior to this decision, the Bureau of Mines and the Geological Survey had interpreted section 15 to require payment for all oil produced.

The decision admits that the Bureau of Mines and Geological Survey's interpretation is "fully warranted," but rejects it in order to be "consistent." In reaching its strained conclusion, the decision says, "Sections 16 and 19 of the Leasing Act * * * provide for certain rates of royalty upon all the oil and gas produced except oil or gas used for production purposes upon the claim or unavoidably lost. *This exception is not found in any other section of the act, but the Department has made it applicable* to all oil and gas leases." (Emphasis added). 51 I.D. at 284. With the exception of a quotation from *M. P. Smith* 51 I.D. 251 (1925) (which states that the Mineral Leasing Act, and regulations issued under the act permit the use without charge, of fuel oil by permittees and lessees in drilling operations), the decision does not in any way explain why the Department made this exception applicable to the other lease sections. *M. P. Smith, supra*, provides no support for the position. *Computation* does note that the Geological Survey and the Bureau of Mines construed section 15 as requiring payment of royalty on all oil, without exception. 51 I.D. at 284. It adds that "such construction has been fully warranted." The decision goes on to reject this "fully warranted" construction.

It seems that the rulings of the Department would be inconsistent if it were to hold that permittees, applicants for lease and lessees are not required to pay royalty on oil or gas * * * used for production purposes, but that after discovery and prior to application for lease, permittees must pay a royalty of 20 per cent on oil or gas used for production purposes in addition to such royalty rate on all oil or gas sold or otherwise disposed of or held for sale or other disposition. 51 I.D. at 285.

I conclude that *M. P. Smith*, 51 I.D. 251 (1925), and *Computation of Royalty under Section 15*, 51 I.D. 283 (1925), are incorrect and that the application of the exemption in sections 18 and 19 to other sections is wrong.

Subsequent Legislative Actions

In 1930, an additional category of onshore oil and gas leases was created by the enactment of the Right-of-Way Lands Leasing Act of May 21, 1930, 30 U.S.C. §§ 301-305 (1970). A lease or agreement entered under the Act of May 21, 1930, was to provide for a royalty to be paid to the United States of not less than "12½ per centum in amount or value of the production."

When Congress amended section 17 of the Mineral Leasing Act by the Act of March 4, 1931, 46 Stat. 1523, to authorize the unitization of leasehold interests in Federal oil and gas leases, it retained the language of the 1920 Act with respect to the royalty requirements for leases issued under Section 17.

The Act of August 21, 1935, 49 Stat. 674, made extensive changes in the leasing procedures relating to Federal oil and gas lands. The royalty rates prescribed were in every case to be based upon a percentage "in amount or value of production."

The current language relating to the royalty requirements to be stipulated in Federal onshore oil and gas leases appeared first in the August 8, 1946, modifications of Section 17 of the Mineral Leasing Act and in the incentives contained in Section 12 of that amendment to the Mineral Leasing Act. In each instance, the royalty to be paid the United States is to be paid "in amount or value of the production removed or sold from the lease."

We can find no explanation for the addition of the phrase "removed or sold from the lease." S. 1236 was first introduced in the 79th Congress, 1st Session. That draft repeated the language of the original Section 14 of the Mineral Leasing Act, and referred to 12½ percent in "amount or value of the production." Section 2, S. 1236, July 6, 1945. On May 29, 1946, S. 1236 was reported from committee. Without explanation, section 2 of the earlier version, now section 3, was amended to read as eventually passed, "12½ per centum in amount or value of the production removed or sold from the lease." We have found no explanation of this change in the committee report, the conference debates, or correspondence.

The Outer Continental Shelf Lands Act of August 7, 1953, 67 Stat. 462, 43 U.S.C. 1331-1343, incorporates two categories of leases normally distinguished as Section 6 and Section 8 leases. Although the details differ and the percentage of royalty required under each category of lease also differs, the royalty under both categories of Outer Continental Shelf lands oil and gas leases is to be paid "in amount or value of the production saved, removed, or sold from the lease."

The OCS Act is an amalgamation of two bills, S. 1901 and H.R. 5134. The original draft of S. 1901 merely required the "payment of royalty of 12½ per centum." After the bill was reported out of the Senate Committee on Interior and Insular Affairs, the words "amount or value of the production saved, removed or sold" were added. The committee report noted that the additional language was clarifying, but did not say what was being clarified. Senate Report No. 411, 83rd Congress, 1st Sess. 21, 25 (1953). The House version, H.R. 5134, included the "saved, removed, or sold" language from its inception.

The royalty requirements of the Mineral Leasing Act, as amended, and the Outer Continental Shelf Lands Act relate to payments "in amount or value of production removed or sold" and "in amount or value of production saved, removed, or sold from the lease," respectively. With the exception of leases issued under sections 18 and 19, the Department must collect royalty on all substances withdrawn from the reservoir.

"Saved", "removed," and "sold" must also be defined. "Sold" means disposed of to a purchaser, whether through the exchange of money, commodities, services, or otherwise. "Saved" means "retained on the leasehold." "Saved" oil and gas would include oil or gas, or both, returned to a subsurface formation as occurs under flood operations and attic oil production procedures. "Removed" then includes all other production, i.e., all other oil and gas secured from within the boundaries of the lease and disposed of in some other manner. It includes oil or gas, which is physically transported from the lease, as well as oil or gas, which is reinjected into a formation under the lease or which through an action or failure to act by the lessee, is lost from the lease by escape through venting or leakage, through consumption in a flare or as fuel for leasehold production equipment.

Collection of Charges for Waste

The Department, in addition to collecting royalty payments on production may also collect for waste. Section 16, 30 U.S.C. § 225 (1970), prescribes that a permittee or lessee in the conduct of exploration and mining operations shall:

Use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits.

Although the last sentence of section 16 makes waste "grounds for the forefiture of a permit or lease," section 31, 30 U.S.C. § 188 (a) (1970), provides authority under which the Secretary may take somewhat less drastic action that the initiation of proceedings to cancel a permit or lease. Under Section 31, the Secretary by regulation and lease provision "may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions of a lease."

Under the above-cited authority, the Secretary has established regulations, 30 C.F.R. 221.35, which require the lessee to pay the lessor "the full value of all gas wasted by blowing, release, escape, or otherwise * * * unless, on application by the lessee, such waste of gas under the particular circumstances involved shall be determined by the Secretary to be sanctioned by the laws of the United States and of the State in which it occurs."

The onshore oil and gas operating regulations, 30 C.F.R. 221.2(n), define waste as follows:

(n) Waste of oil or gas. Waste of oil or gas, in addition to its ordinary meaning, shall mean the physical waste of oil or gas, and waste, loss, or dissipation of reservoir energy existent in any deposit containing oil or gas and necessary or useful in obtaining the maximum recovery from such deposits.

(1) Physical waste of oil or gas shall be deemed to include the loss or destruction of oil or gas after recovery thereof such as to prevent proper utilization and beneficial use thereof, and the loss of oil or gas prior to recovery thereof by isolation or entrapment, by migration, by premature release of natural gas from solution in oil, or in any other manner such as to render impracticable the recovery of such oil or gas.

(2) Waste of reservoir energy shall be deemed to include the failure reasonably to maintain such energy by artificial means and also the dissipation of gas energy, hydrostatic energy, or other natural reservoir energy, at any time at a rate or in a manner which would constitute improvident use of the energy available or result in loss thereof without reasonably adequate recovery of oil.

Under the current regulations, waste, which the Secretary determines after application by the lessee "* * * to be sanctioned by the laws of the United States and of the State in which the loss occurs * * *" is subject to the royalty applicable to all production from a lease and to a greater assessment that may attach to a loss which the Secretary does not determine to be sanctioned either by the laws of the United States or of the State where the loss occurs. In the absence of an application by the lessee, favorably acted upon by the Secretary or his delegate, the assessment of the greater amount prescribed in the regulations attaches to lost oil or gas.

APPLICATION OF THIS OPINION

I have concluded that both the Mineral Leasing Act and the OCS Act require the Department to collect royalty on all production, including oil and gas used for production purposes and oil and gas unavoidably lost and that inclusion, of an exemption for this purpose in either a lease or Departmental regulation, except pursuant to the now dormant sections 18 and 19 of the Mineral Leasing Act, is contrary to the enabling statutes and is a nullity. No effect will be given to these exemptions in the future. The question remains whether the Department will seek to recover royalties that were not paid as a result of past erroneous decisions of officers of this Department. In the case of leases issued under the Mineral Leasing Act, the error extends back to 1921. For the OCS Act, the error began in 1954. To some extent, the resolution of the question involves considerations of policy rather than questions of law. Generally, a decision overruling an earlier decision is retrospective as well as

prospective in operation. Linkletter v. Walker, 381 U.S. 618 (1965); Gideon v. Wainwright, 372 U.S. 335 (1962); Safarik v. Udall, 304 F. 2d 944 (D.C. Cir. 1962), cert. denied, 371 U.S. 901 (1961). The same considerations govern civil criminal and administrative proceedings. Retail Wholesale and Department Store Union. v. NLRB, 466 F. 2d 350 (D.C. Cir. 1972) (Referred to as Retail Union); Safarik v. Udall, supra. A decision may be made prospective "where persons have contracted, acquired rights or acted in reliance on the prior decision and the operation of the later decision retrospectively would result in substantial harm to such persons." Safarik v. Udall, supra at 950. In deciding whether a decision should be made prospective, the decision-maker must weigh the detriment created by applying the incorrect law against the hardship the application of the new law would create. Retail Union v. NLRB, supra. The unauthorized acts of employees of the United States do not prevent it from enforcing the law. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Utah Power & Light Co. v. United States, 243 U.S. 389 (1917); 43 C.F.R. 1810.3 (1975); but see United States v. Lazy F. C. Ranch, 481 F. 2d 985 (9th Cir. 1973) (estoppel possible if public interest not adversely affected.)

Generally speaking, four factors govern the inquiry into the retroactivity of an interpretation: (1) the nature of reliance placed on the precedent by the parties; (2) the purpose of the rule in light of public policy; (3) the harm to the parties who relied on the prior decisions; and (4) the harm to the government or public purpose. Linkletter v. Walker, supra; United States v. Winnegar, 81 I.D. 370 (1974), appeal pending, Shell Oil Co. v. Kleppe, Civil No. 74-F-739, D. Colo. In *Winnegar*, for example, the Interior Board of Land Appeals reversed a longstanding decision of the Department that established a different standard to be met by oil shale claimants under the Mining Law of 1872 from that for claimants of other minerals. The Board made its decision "retroactive"[1] because it felt that the interest of the United States in preventing improper disposition of public lands outweighed the speculative interest of the oil shale claimants.

In many other instances, however, the Department has recognized that legitimate interests of persons dealing with the Department were sufficient for a ruling to be made prospective only. In Issuance of Noncompetitive Oil and Gas Leases on Lands Within The Geologic Structure of Producing Oil or Gas Fields, 74 I.D. 285 (1967) (referred to as Issuance), the Solicitor concluded that a prior practice of the Department of accepting noncompetitive oil and gas lease offers that were included in a known geologic structure after the date of application, but before the date of issuance was unauthorized by statute. He ruled that an offer must be rejected if it was included in a known geologic structure any time before the lease was issued. 74 I.D. at 285-86. Failure to apply this principle in the past undoubtedly cost the United States much revenue—at a minimum, leases were obtained without competitive bidding, and without the payment of any bonus whatsoever. Applying the doctrine to existing leases would have, on the other hand, possibly resulted in the cancellation of scores of leases, some of which could have been almost fifty years old. Consequently, on the authority of Franco Western Oil Co. (Supp.), 65 I.D. 427 (1958), Issuance was made prospective only. 74 I.D. at 290. This position was approved in *McDade* v. *Morton*, 353 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1158 (D.C. Cir. 1974).

Franco Western Oil Co. (Supp.), 65 I.D. 427 (1958), approved *Safarik* v. *Udall*, supra, considered whether a decision changing an interpretation of the Mineral Leasing Act should be given prospective effect. The decision noted that, "It has not been the practice of the Department to give its decisions retroactive effect so as to disturb actions taken in other cases on an overruled interpretation of law." 65 I.D. at 428. The court in *Safarik* v. *Udall*, 304 F.2d at 950, agreed with this interpretation and added that the power to make "decisions operate only prospectively 'whenever injustice or hardship will thereby be averted' is undoubted." Id.

Here, until June 28, 1974, for the OCS, and November 16, 1974, for the Mineral Leasing Act, oil and gas lessees relied on the regulations and lease forms of the Department in good faith. A requirement that they repay funds now due under the present interpretation of the law would impose heavy burdens on these operators. In addition, there will be a difficult, if not impossible, problem of measuring what amounts of oil and gas were used or lost in the past. I do not believe that the purpose of either Act would be enhanced by applying this opinion to royalty collected in the period preceding June 28, 1974, for the OCS lessees, or November 16, 1974, for Mineral Leasing Act lessees. Subsequent to that time, however, the lessees should have been aware that the Department was investigating the applicable royalty clauses, and on notice that the past interpretation of law might be incorrect. The conclusions I have reached should be made applicable from that time forward.

Dated: October 4, 1976.

H. GREGORY AUSTIN.

Approved:
THOMAS S. KLEPPE.

COMPUTATION OF MONIES DUE THE UNITED STATES ON OIL AND GAS LOST AS A RESULT OF PENNZOIL'S BLOWOUT

M-36888 (supp.). Decided: January 19, 1977.

Oil and Gas Leases: Production—Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases—Words and Phrases.

Oil or gas that is wasted is in a category by itself, distinctly separable from "production," when it is oil or gas that is lost on the surface or in the subsurface through the negligence of the lessee, i.e., without the specific sanction of the supervisor.

Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases.

The loss through waste to the lessor compensable under 30 CFR 250.20 is either the royalty or the full value and the choice between them is a matter which is committed to the sound exercise of the supervisor's discretion.

Oil and Gas Leases: Generally—Oil and Gas Leases: Royalties.

Whereas 30 CFR § 221.48 and § 221.50 clearly indicate the lessee must pay royalty on all production, the lessee is obligated to pay full value on all gas wasted (§ 221.35), and the supervisor has no discretion to collect less than the full value of gas wasted.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., January 19, 1977.

Memorandum

To: Director, U.S. Geological Survey.

From: Solicitor.

Subject: Computation of monies due the United States on oil and gas lost as a result of Pennzoil's blowout.

This is written in response to your request for clarification of the portion of the Solicitor's Opinion of October 4, 1976, which related to the assessment of greater than normal royalty charges for oil or gas that is wasted. The question you raise is whether the conclusion of the Solicitor's Opinion that an assessment greater than the normal royalty charge may be required for oil or gas that is wasted is applicable to leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. §§ 1331-1343) as well as those issued pursuant to the Mineral Leasing Act of 1920 (30 U.S.C. §§ 181-287). The Solicitor's Opinion did not specifically address the question of assessments for waste which may arise under an OCS oil and gas lease. Consequently, the question is discussed below as an addendum to that opinion.

Section 5(a) of the OCS Lands Act (43 U.S.C. § 1334(a)(1)) grants discretionary authority to the Secretary of the Interior to "prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer continental shelf . . ." That section also provides that "such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act." Section 5(a)(2) of the Act (§ 1334(a)(2)) provides criminal penalties for willful violation of rules prescribed by the Secretary for the prevention of waste. Additionally, Section 5 mandates the Secretary to administer the provisions of the Act relating to OCS leasing and to prescribe rules and regulations necessary to carry out those provisions.

Under this authority, the Secretary has promulgated regulations pertaining to oil and gas and sulphur operations in the outer continntal shelf (30 CFR Part 250). Under Section 250.30 of those regulations, the lessee is required to "take all necessary precautions to prevent damage to or waste of any natural resource. . . ." "Waste of oil and gas" as defined in Section 250.2(h) includes, among other things, "(1) physical waste as that term is generally understood in the oil and gas industry; . . . and (3) the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas. . . ." When waste occurs, the supervisor is authorized by Section 250.20 to determine, pursuant to the lease and regulations, "the loss through waste" and "the compensation due to the lessor as reimbursement for such loss."

There are three separate aspects of the statutory-regulatory scheme set forth above. It is evident throughout Section 5 of the Act that Congress was clearly concerned with the prevention of waste. With this regard, two separate sets of obligations for prevention of waste and penalties for violation of those obligations are provided in the Act itself and carried forward in the regulations.

The first set of obligations and penalties arises under the authorization of the Secretary to prescribe regulations to provide for the prevention of waste and is carried forward in regulations which make it the obligation of the lessee to "take all necessary precautions to prevent damage to or waste of any natural resource." The Secretary's regulatory prescription establishes an obligation on the part of the lessee to avoid negligent actions or omissions which result in waste. The statutory penalty for such negligence is cancellation of the lease by the Secretary or

[1] The decision in *Winnegar* is not truly retroactive because it did not change a previously completed action, although it did reverse a longstanding rule.

forfeiture of the lease through judicial proceedings for failure to comply with the regulations. (§ 5(b)) (*See also*, 30 CFR 250.80).

The second set of obligations and penalties arises under § 5(a)(2) of the statute. In that subsection, Congress established criminal penalties for the knowing and willful violation of any rule or regulation prescribed by the Secretary for the prevention of waste.

The third aspect of the statutory-regulatory scheme arises under the Secretary's statutory duty to administer the OCS Lands Act leasing provisions and to prescribe rules and regulations necessary to carry them out. (§ 5(a)) It is pursuant to this authority that the Secretary has established regulations which provide for compensation to the United States as reimbursement for the loss of oil and gas through waste (30 CFR 250.20).[1] The regulation is based on a policy of strict liability of the lessee for waste as defined under the regulations (30 CFR § 250.2(h)).

Section 250.20 of the regulations clearly gives to the supervisor the discretion to determine the loss through waste and the compensation due to the lessor as reimbursement for such loss. The first determination the supervisor must make under the regulation requires measurement or a reasonable estimate of the volume of oil or gas wasted. The second determination, of the compensation due the lessor as reimbursement for the loss, is the one on which you request our advice. Your question is whether that compensation may exceed the normal royalty charge.

We think the proper amount to be assessed as compensation for the loss is, in the supervisor's discretion, either the royalty or the full value of the oil or gas that is wasted. Section 250.20 of the regulations contains separate provisions for (1) the supervisor's determination of royalty due on production and (2) his determination of the amount due as compensation for loss through waste. Hence, waste is clearly treated separately from that part of production on which only royalty is due. Reading together the definition of waste contained in § 250.2(h) of the OCS regulations and Section 250.20, it is clear that what distinguishes waste on which more than royalty may be collected from lost production on which only royalty may be collected is that the former was lost through negligence. Oil or gas that is wasted is in a category by itself, distinctly separable from "production", when it is oil or gas that is lost on the surface or in the subsurface through the negligence of the lessee, i.e., without the specific sanction of the supervisor.

This distinction between production on which only royalty is due and waste for which a greater amount may be assessed is also found in the corresponding onshore oil and gas operating regulations. Under 30 CFR 221.35, waste of oil or gas is again defined in terms of unsanctioned loss. Whereas Sections 221.48 and 221.50 clearly indicate the lessee must pay royalty on production, the lessee is obligated to pay full value on all gas wasted (§ 221.35), and the supervisor has no discretion to collect less that the full value of gas wasted.

Offshore, the supervisor has more flexibility. Under the OCS regulations, when loss of oil or gas is unsanctioned, strict liability attaches and the amount due the lessor under § 250.20 is "compensation . . . as reimbursement" for the loss. Since wasted oil or gas is oil or gas which is produced or producible, in the context of the definition of "production" in the October 4, 1976, Solicitor's Opinion (all oil and gas withdrawn from a reservoir), the minimum amount accruing to the lessor on wasted oil or gas is the royalty. However, in 30 CFR § 250.20, the Secretary has authorized the supervisor, in his discretion, to determine "the loss through waste" and "the compensation due to the lessor as reimbursement for such loss." The language of the regulation, which separates the supervisor's determination of royalty due on production from his determination of the amount due as compensation for loss through waste, suggests that the supervisor may determine that an amount greater than the normal royalty charge accrues to the lessor. Hence, the loss to the lessor compensable under Section 250.20 is either the royalty or the full value and the choice between them is a matter which is committed to the sound exercise of the supervisor's discretion, subject to any instructions or guidelines contained in pertinent OCS Orders.

H. GREGORY AUSTIN,
Solicitor.

ADDENDUM B

U.S. DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY,
October 4, 1976.

Hon. PAUL G. DEMBLING,
General Counsel, U.S. General Accounting Office, Washington, D.C.

DEAR MR. DEMBLING: Enclosed with this letter is a copy of a Solicitor's Opinion, which I have approved, which fully explains the Department of the Interior's views on the royalty and other financial obligations of an oil and gas lessee under the Mineral Leasing Act of 1920, and the Outer Continental Shelf Lands Act.

The Opinion concludes that:

1. Production as used in the Mineral Leasing Act of February 23, 1920 as amended, and as used in the Outer Continental Shelf Lands Act of August 7, 1952, includes all oil or gas which is withdrawn from a reservoir.

2. Royalty is due and payable "in amount or value" of all oil or gas, or both, that is withdrawn from a reservoir which is subject to a Federal oil and gas lease. More specifically, royalty is due on vented and flared gas, and gas or oil, or both, leaked, spilled, or used in producing operations, and lease terms and regulations to the contrary are invalid.

3. Under current regulations an assessment greater than the normal royalty charge may be required when waste occurs that is not determined by the Secretary or his delegate to be sanctioned by the laws of the United States; and

4. Beginning June 28, 1974, for OCS leases, and November 18, 1974, for Mineral Leasing Act leases, royalty should be collected in accordance with the Opinion.

The Opinion responds fully to your request for information on this topic.

Sincerely yours,

THOMAS S. KLEPPE,
Secretary of the Interior.

Enclosure.

EFFECT OF OCTOBER 4, 1976 SOLICITOR'S OPINION M-36888

M-36888 Supp. II. Decided: March 9, 1977. Oil and Gas Leases: Generally—Outer Continental Shelf Lands Act: Oil and Gas Leases.

The interpretation of the Mineral Leasing Act of 1920 set forth in the October 4, 1976, Solicitor's Opinion (M-36888) is compelled by the statute.

Terms of an oil and gas lease inconsistent with the statute are equally as invalid as a regulation which operates to create a rule out of harmony with the statute.

A lessee gains no rights through a lease which could not be bestowed lawfully, since regulations or lease terms inconsistent with the statute are invalid.

The involuntary invalidation of a lease term does not amount to *pro tanto* cancellation of the lease.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C. March 9, 1977

JEROME C. MUYS, Esquire,
Debevois and Liberman,
700 Shoreham Building,
806 15th Street, N.W.,
Washington, D.C.

DEAR MR. MUYS: This letter is written in response to your letter of January 12 in behalf of Chanslor-Western Oil and Development Company. Action on Chanslor-Western's appeal from the application of NTL-4 to Chanslor-Western's leases (Sacramento 019381(a), 091392, 019381(b)) has been delayed pending this reply. In the Solicitor's Opinion of October 4, 1976, we concluded that in the absence of a specific statutory bar, such as in sections 18 and 19 of the Mineral Leasing Act of 1920, royalty is due on all production, including vented and flared gas and oil or gas used for production purposes or unavoidably lost. We stated that inclusion of an exemption for this purpose, other than pursuant to sections 18 and 19, in either a lease or Departmental regulation is contrary to law and is a nullity.

Chanslor-Western's leases Sacramento 019381(a) and 019381(b) were issued pursuant to Section 14 and Sacramento 019382 was reissued pursuant to section 2(a) of the 1935 amendments to the Mineral Leasing Act. Neither section provided for the exemption of oil or gas used for production purposes or unavoidably lost from royalty requirements as in sections 18 and 19 of the Act. You seek clarification of the October 4 Solicitor's Opinion or "limitation of its application to Chanslor-Western's appeal so as to preserve Chanslor-Western's long-standing exemption from payments of royalties on oil which it uses for essential production purposes on the lease."

The intent expressed in the October 4 Solicitor's Opinion is to apply the Solicitor's interpretation to all existing leases from the date of issuance of NTL-4, November 18, 1974, for Mineral Leasing Act leases and from the date of issuance of the corresponding OCS Notice, June 28, 1974, for OCS Lands Act leases. Your position is that the Department cannot now change its interpretation of the Mineral Leasing Act because it is a longstanding contemporaneous interpretation of the statute by the agency charged with its interpretation and the property rights of the lessee are determined by those rules in effect when the lease is executed. (Citing *Union Oil Co. of California* v. *Morton*, 512 F. 2d 743, 748 (9th Cir. 1975) *Continental Oil Co.* v. *U.S.*, 184 F. 2d 802, 810 (9th Cir. 1950)).

First, we will respond to your argument based on the doctrine of contemporaneous construction. Stated simply, the doctrine of contemporaneous construction is that the interpretation of a statute by the agency charged with its administration which was contemporaneous with enactment and which is of longstanding is entitled to great, if not controlling, weight in construeing the statute. Houghton v. Payne, 194 U.S. 88 (1904).

[1] "The supervisor shall determine pursuant to the lease and regulations the rental and the amount or value of production accruing to the lessor as royalty, the loss through waste or failure to drill and produce protection wells on the lease, and the compensation due to the lessor as reimbursement for such loss."

However, "it is only where the language of the statute is ambiguous and susceptible of two reasonable interpretations that weight is given to the doctrine of contemporaneous construction." (Id. at 99). The rule of contemporaneous construction is not an absolute rule of interpretation and will give way to an inquiry as to the original correctness of such construction (*Id.* at 100). "A custom of the department, however long continued by successive officers, must yield to the positive language of the statute." (*Id.*)

The interpretation of the Mineral Leasing Act of 1920 set forth in the October 4 Solicitor's Opinion, we think, is compelled by the statute. We do not think the particular language of the statute is susceptible of any other reasonable interpretation. We have indicated why we think so in the Opinion. In Manhattan General Equipment Co. v. Commissioner, 297 U.S. 129, 134 (1936), the court stated:

"The power of an administrative officer or board to administer a federal statute and to prescribe rules and regulations to that end is not the power to make law . . . but the power to adopt regulations and to carry into effect the will of Congress as expressed by the statute. A regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity."

See, also, McDade v. *Morton*, 353 F. Supp. 1006, 1012 (D.D.C. 1973); *Lynch* v. *Tilden Produce Co.*, 265 U.S. 315 (1924). Terms of an oil and gas lease inconsistent with the statute are equally invalid. *Union Oil Company of California* v. *Morton, supra*. In the *Union Oil* case the court outlined the outermost boundary of the Secretary's authority. "The Secretary can alienate interests in land belonging to the United States only within limits authorized by law." The October 4 Solicitor's Opinion, in effect, found that the Secretary, by permitting exemptions from royalty requirements for oil or gas used for production purposes or unavoidably lost, was alienating the royalty interest of the United States on certain leases without authority to do so.

In a similar case, *Atlantic Richfield Company* v. *Hickel*, 432 F. 2d 587 (10th Cir. 1970), an administrative determination made by the Acting Director of the Geological Survey resulting in a reduced royalty under a lease held by ARCO was determined by the Secretary to be contrary to law. ARCO was required to pay back royalty. The court sustained the Secretary's view that the original administrative determination was contrary to law and thereby outside the scope of the agents' authority. (at 592) The court held that "the United States may not be estopped from asserting a lawful claim by the erroneous or unauthorized actions or statements of its agents or employees, nor may the rights of the United States by waived by unauthorized agents' acts. (at 591–592)

The Secretary was held to be without authority to accept a lesser royalty rate than that required under the Mineral Leasing Act provisions. The acquiescence by the Government's agents and acceptance of a lesser royalty for thirteen years were held not to alter the obligation of the Secretary nor were those circumstances held to estop the government. *See also, Federal Crop Ins. Corp.* v. *Merrill*, 332 U.S. 380, 384–5 (1947); *Automobile Club of Michigan* v. *Commissioner*, 353 U.S. 180 (1957); *Utah Power and Light Co.* v. *Morton*, 243 U.S. 389, 410 (1917).

In another similar case, *McDade* v. *Morton, supra* at 1011, the Interior Department Solicitor found that the past practice of determining whether to lease land competitively or noncompetitively upon the basis of facts known at the time of filing of a lease offer was clearly erroneous and contrary to the ordinary reading of the statute. In upholding the Solicitor's Opinion, the court stated that an administrative agency is not estopped "by its former interpretation of a statute, however longstanding, from correcting that which it presently feels to be clearly erroneous." (at 1012) The doctrine of equitable estoppel was held not to be a bar to the Secretary's correction of a mistake of law. (at 1012) Then the court quoted from *Pennsylvania Water and Power Co.* v. *Federal Power Commission*, 123 F. 2d 155, 162 (1941), the following statement:

"Save in respect of a subject-matter finally closed and settled under the former practice, the decision on which that practice is founded contains no element of estoppel or *res judicata*, as the doctrines thereof are applicable in judicial proceedings."

The chief argument you make in Chanslor-Western's behalf is that the language quoted by the court in McDade exempts Chanslor-Western's leases from the applicability of NTL–4 and the October 4 Solicitor's Opinion. You view the issuance of the lease as making the lease terms "a subject-matter finally closed and settled upder the former practice."

The quoted language originated in the case of *Payne* v. *Houghton*, 22 App. D.C. 234, 249, aff'd, *Houghton* v. *Payne*, 194 U.S. 88 (1904). At issue in that case was the government's revocation of a certificate or license admitting certain publications as second class mail. The license was determined to have been issued contrary to law. The court upheld the government. The quoted language was in connection with the statement: "Were an attempt made now to reopen the question as to mail matter carried under the former permission, and collect additional postage, the question would be a very different one." It appears that the language in question went to the retroactive collection of postage on mail carried earlier under the certificate, not to revocation of the certificate itself. Since the court did not consider or rule on the question of collection of past postage, the statement in question appears as dictum. In Chanslor-Western's case, the Department, in effect, has declared invalid a lease term as contrary to law and this action is not inconsistent with the action taken by the government in *Payne* to revoke a certificate deemed contrary to law.

The specific question before the Department in this matter is not whether the regulations or lease terms are invalidated by the corrected interpretations (since they are invalidated by operation of law) but rather whether the Secretary is required to collect additional royalty that would have been due in the past under the corrected interpretation of the law. The decision in the *Atlantic Richfield* case upholds the Secretary's authority to collect back royalty based on correction of an administrative interpretation of the Mineral Leasing Act. Yet precedent also has been set for a corrected interpretation of the law under similar circumstances to be applied from date of notice as in *McDade*. *See also, Franco Western Oil Company, et al.*, 65 I.D. 427, 428; *Safarik* v. *Udall*, 304 F. 2d 944 (D.C.C. 1962). These cases indicate that it is in the Secretary's discretion to apply the corrected interpretation retroactively or prospectively based on equitable considerations.

The Secretary is limited in the exercise of this authority only by the rule of estoppel where the application of the corrected interpretation of law threatens to work a serious injustice and if the public's interest would not be unduly damaged by the imposition of estoppel. *United States* v. *Lazy FC Ranch*, 481 F. 2d 985, 989, (9th Cir., 1973). The Secretary has determined that the payment of royalty under the corrected interpretation will date from the date of notice to the lessee (through NTL–4). We do not think this determination will work a serious injustice especially since other, more appropriate, relief may be obtained under the Mineral Leasing Act where justified. The Secretary is authorized pursuant to 30 U.S.C. § 209 to reduce the royalty whenever in his judgment the lease cannot successfuly be operated under the lease terms.

You also argue on behalf of Chanslor-Western that "the property rights of the lessee are determined by those rules in effect when the lease was executed." (Citing *Union Oil Company, supra*) Without going further into the reasons for this, it should be noted that the interpretation just quoted is peculiar to the OCS Lands Act. The leases we are discussing were issued under the Mineral Leasing Act of 1920. In any case, a lessee gains no rights through a lease which could not be bestowed lawfully, since regulations or lease terms inconsistent with the statute are invalid. *Union Oil Company, supra*, at 748. With this regard, each of Chanslor-Western's leases expressly incorporated the provisions of the Mineral Leasing Act of 1920. Regardless of whether the lease expressly or impliedly incorporated the Act, the ruling in *Continental Oil Company* v. *United States*, (184 F. 2d 802 (9th Cir. 1950)) applies:

"The rights of the parties are determined by the provisions of the leases, *read in light of the provisions of the Mineral Leasing Act* . . ." (at 807) (emphasis added)

Clearly, when the provisions of the lease are in conflict with the Act, the statute must prevail.

Your argument is apparently based on the view expressed in *Standard Oil Company of California* v. *Hickel*, 317 F. Supp. 1192, aff'd 450 F. 2d 493 (9th Cir. 1971) that the Government's rights and obligations under a lease as the lessor of public lands are subject to the same rules of contract construction as are applicable to contracts between private parties. Thus, you argue that invalidation of Chanslor-Western's lease terms providing for certain exemptions from payment of royalty amounts to unauthorized administrative cancellation of leases, similar to a breach of contract. But *Standard Oil* dealt with the construction of contract provisions which fall within the discretionary authority of the Secretary. At issue in this case are contract provisions which the Solicitor concludes the Secretary could not validly approve since they are contrary to the law establishing the authority under which the leases were issued. We would likely concur in your argument based on *American Trucking Assn.* v. *Frisco Transportation Co.*, 358 U.S. 133, 146 (1948), *Alabama Power Co.* v. *Federal Power Commission*, 482 F. 2d 1208, 1212–16 (5th Cir 1973) and *United States* v. *Seatrain Lines, Inc.* 329 U.S. 424 (1947), where an administrative agency exercised its discretionary authority to change the terms of certain issued licenses through adoption of a different, preferable policy, if that were the case here. But the cases you cite are distinguished from this particular case by the fact that in this case the statute is viewed by the Department as compelling the conclusion reached in the October 4 Solicitor's Opinion. Hence, the involuntary invalidation of a lease term does not amount to *pro tanto* cancellation of the lease.

In conclusion, the October 4, Solicitor's Opinion is properly applicable to all leases issued pursuant to the Mineral Leasing Act of 1920 and the OCS Lands Act. The Secretary's decision to require payment of royalty in accordance with that Opinion from the date of issuance of notices to the lessees and not to require back payment of royalty was based upon equitable considerations within the lawful exercise of his discretion.

We hope this letter has clarified a number of points made in the October 4 Solicitor's Opinion which you questioned.

Sincerely yours,

FREDERICK N. FERGUSON,
Acting Deputy Solicitor.

[FR Doc.77-13581 Filed 5-11-77;8:45 am]

National Park Service

GLACIER NATIONAL PARK, WEST GLACIER, MONT.

Public Meetings and Availability of Draft Environmental Assessment on Fire Management in Glacier National Park

Purpose of meetings.—Continuing public interest has been expressed in many quarters on wildland fire control and management programs in Glacier National Park. This Notice is to advise the public that existing programs and possible alternatives have been reviewed and documented in a draft environmental assessment, which is available for study at Park Headquarters in West Glacier, Montana, and at Ranger Stations throughout the park. Public meetings will be held in the vicinity of the park during June 1977 to enable the public to comment on the park's fire control and management practice.

Location of meetings.—Two meetings will be held to receive comments. The first will be held at 7 p.m., June 23, at the Rainbow Hotel, 20 Third Street North, Great Falls, Montana. The second will be held at 7 p.m., June 27, at the Eagle's Club, 37 First Street West, Kalispell, Montana. These meetings are being held to provide the widest possible involvement from individuals, organizations, and public officials. Written statements regarding the subject under discussion at these meetings are also invited. These may be submitted at the public meetings or may be addressed to the Superintendent, Glacier National Park, West Glacier, Montana 59936. The official record for these statements will remain open through July 27, 1977. Additional information on the public meetings or copies of environmental assessments may be obtained from the Superintendent at the above address.

If, as a result of public comments and a full analysis of the situation, the Superintendent determines that fire control practices in the park should be revised, a specific plan will be prepared and submitted to the Regional Director of the Rocky Mountain Region for approval, together with the final environmental assessment.

PHILLIP R. IVERSEN,
Superintendent, Glacier National Park, West Glacier, Montana 59936.

[FR Doc.77-13591 Filed 5-11-77;8:45 am]

GOLDEN GATE NATIONAL RECREATION AREA

Meetings; Notice of Intent

Notice is hereby given in accordance with the Federal Advisory Committee Act that five meetings of the Golden Gate National Recreation Area Advisory Commission will be held during June 1977. The major item on the agenda is to receive public comment to aid in developing a General Management Plan for Golden Gate National Recreation Area and Point Reyes National Seashore.

Prior to and concurrent with these public meetings will be a series of consultations between members of the National Park Service and appropriate Federal, State, and local government officials, organizations and individuals. These meetings and consultations will allow the Advisory Commission and the National Park Service to hear comments from individuals and organizations on proposals in the General Management Plan Assessment of Alternatives for Golden Gate National Recreation Area and Point Reyes National Seashore.

This involvement of the public is an important step in developing the General Management Plan that will guide the preservation and use of these two national park areas.

The meetings will be held as follows:

Saturday, June 11, 1977, 9:30 a.m. (PDT) at Golden Gate National Recreation Area Headquarters, Building 201, Fort Mason, San Francisco.

Wednesday, June 15, 1977, 7:30 p.m. (PDT) at West Marin School, Highway 1, Point Reyes Station, Calif.

Wednesday, June 22, 1977, 7:30 p.m. (PDT) at Golden Gate National Recreation Area Headquarters, Building 201, Fort Mason, San Francisco.

Saturday, June 25, 1977, 9:30 a.m. (PDT) at Tamalpais High School Student Center, Miller Avenue and Camino Alto Road, Mill Valley, Calif.

Wednesday, June 29, 1977, 7:30 p.m. (PDT) at YWCA, 2600 Bancroft Way, Berkeley, Calif.

National Park Service staff will be available to answer questions for one hour immediately preceding each of the workshops. For further information contact William J. Whalen, General Manager, Bay Area National Parks, Fort Mason, San Francisco, CA 94123; telephone: 415-556-2920.

The meetings will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Minutes of the meeting will be available for public inspection within 45 days of each meeting in the Office of the General Manager, Bay Area National Parks, Fort Mason, San Francisco, CA.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park System in Marin and San Francisco counties. Members of the Advisory Commission are:

Mr. Frank Boerger	Mr. Peter Haas, Sr.
Ms. Daphne Greene	Ms. Amy Meyer

Member pending confirmation by the Secretary of the Interior are:

Mr. Ernest Ayala	Mr. John Mitchell
Mr. Richard Bartke	Mr. Merritt Robinson
Mr. Fred Blumberg	Mr. Jack Spring
Mr. John Jacobs	Dr. Edgar Wayburn
Ms. Ginny Park Li	Mr. Joseph Williams
Mr. Joseph Mendoza	

Dated: May 29, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region, National Park Service.

[FR Doc.77-13594 Filed 5-11-77;8:45 am]

ROCKY MOUNTAIN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Rocky Mountain Regional Advisory Committee will be held on June 15, 1977, at Fort Union Trading Post National Historic Site, Trenton, North Dakota; June 16, 1977, Theodore Roosevelt National Memorial Park, Medora, North Dakota; June 17, 1977, Wind Cave National Park, Hot Springs, South Dakota, and Mount Rushmore National Memorial, Hill City, South Dakota.

The purpose of the Rocky Mountain Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from member of the public on problems and programs pertinent to the Rocky Mountain Region of the National Park Service.

The members of the Advisory Committee are as follows:

Mr. William W. Robinson, Denver, Colorado (Chairman)
Dr. John D. Hunt, Logan, Utah
Mr. Hoadley Dean, Rapid City, South Dakota
Mr. Samuel J. Taylor, Moab, Utah
Mr. D. C. "Del" Shipman, Watford City, North Dakota
Mr. Vince R. Lee, Wilson, Wyoming

The meetings and on-site inspections will be conducted in different locations as follows:

JUNE 15, 1977

12 p.m. (CDT)—Tour of Fort Union Trading Post National Historic Site.

2 p.m. (CDT)—Ceremony commemorating inclusion of Snoden Bridge in the National Register of Historic Places.

JUNE 16, 1977

9 a.m. (MDT)—Tour of South Unit, Theodore Roosevelt National Memorial Park.

1 p.m (MDT)—Public meeting at Roughrider Motel, Medora, N.D., to discuss the redesignation of Theodore Roosevelt National Memorial Park.

JUNE 17, 1977

8 a.m. (MDT)—Tour Wind Cave National Park.

12:30 p.m. (MDT)—Public meeting at Visitor's Center Conference Room, Mount Rushmore National Memorial to discuss concessions operations in the National Park Service.

Persons wishing information concerning this meeting or who wish to submit written statements may contact the Superintendents of Theodore Roosevelt National Memorial Park or Mount Rushmore National Memorial or the Public Affairs Office, Rocky Mountain Regional Office, National Park Service, Denver, Colorado 80225. Telephone (303) 234–3095.

Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at the Rocky Mountain Regional Office, 655 Parfet Street, Denver, Colorado.

Dated: May 4, 1977.

LYNN H. THOMPSON,
Regional Director,
Rocky Mountain Region.

[FR Doc.77-13593 Filed 5-11-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-33]

CERTAIN LIGHT SHIELDS FOR SONAR APPARATUS

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-33, Certain Light Shields for Sonar Apparatus, at 10 a.m. on Thursday, June 2, 1977, in the ALJ Hearing Room, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on April 26, 1977 (42 FR 21335). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13603 Filed 5-11-77;8:45 am]

[Investigation No. 337-TA-31]

CERTAIN STEEL TOY VEHICLES

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-31, Certain Steel Toy Vehicles, at 10 a.m. on Tuesday, May 17, 1977, in the ALJ Hearing Room, Rom 610, Bicentennial Building, 600 E Street, NW., Washingtn, D.C. Notice of this investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19933). The purpose of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13602 Filed 5-11-77;8:45 am]

[Investigation No. 337-TA-30]

DISPLAY DEVICES FOR PHOTOGRAPHS AND THE LIKE (PHOTOCUBES)

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-30, Display Devices for Photographs and the like, at 10 a.m. on Monday, May 16, 1977, in Room 610 Bicentennial Building, 600 E Street, NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on February 18, 1977 (42 FR 10073). The purpose of this conference are to establish a schedule for the submission of prehearing briefs, set a date for the prehearing conference and hearing, and to resolve any discovery problems which have arisen relating to the preparation for hearing.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13601 Filed 5-11-77;8:45 am]

[Investigation No. 337-TA-32]

DOT MATRIX IMPACT PRINTERS

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-32, Dot Matrix Impact Printers, at 10 a.m. on Wednesday, May 18, 1977, in the ALJ Hearing Room, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on April 26, 1977 (42 FR 21334). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Temporary Relief Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon parties of record and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13604 Filed 5-11-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-31]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, COMMITTEE ON MATERIALS AND STRUCTURES

Meeting

The NASA Research and Technology Advisory Council (RTAC) Committee on Materials and Structures will meet on June 7, 8, and 9, 1977, at the NASA Langley Research Center, Hampton, Virginia. The meeting will be held in Room 225, Building 1219. The meeting is open to the public on a first-come/first-served basis, up to the seating capacity of the room, which is about 50 persons. Visitors will report to the receptionist in the lobby of Building 1219.

The NASA RTAC Committee on Materials and Structures serves in an advisory capacity only. The Committee studies issues pertinent to the NASA materials and structures research program, and identifies related critical problems in materials science and engineering, advanced concepts and materials applications, structural design and analysis, and structural loads and dynamics. They review relevant program goals, assess current work, determine technology voids, and report recommendations to the Council. The current Chairman is Dr. Holt Ashley. There are 14 members. The following list sets forth the approved agenda and schedule for the June 7, 8, and 9, 1977, meeting. For further information, please contact Mr. George C. Deutsch, NASA Headquarters, Washington, D.C. 20546, Area Code 202, 755-3264.

JUNE 7, 1977

Time	Topic
8:30 a.m.	Chairman's and Executive Secretary's Reports (Purpose: These reports will be presented to obtain approval of past meeting minutes, to review results of the February 2–4, 1977, meeting of the RTAC, to report NASA organization changes, to brief the Committee on recent research and technology program changes, and to obtain members' comments and recommendations.)
9:45 a.m.	NASA Office of Aeronautics and Space Technology New Initiatives Review (Purpose: To inform the Committee on New Program Plans for Fiscal Year 1979 and obtain members' comments and recommendations.)
1:00 p.m.	Review of Langley Program and Facilities (Purpose: To inform the Committee on the projects in the Langley program and to inspect related facilities.)

JUNE 8, 1977

Time	Topic
8:30 a.m.	Continue Review of Langley Program and Facilities.
1:00 p.m.	NASA Composites Program Review (Purpose: The Committee will review a report on the status of the NASA Composite Materials Program for purposes of discussion and recommendation.)
2:00 p.m.	Composites for General Aviation (Purpose: Two members of the Committee will review their plans for working with the RTAC Panel on General Aviation and for attending the General Aviation Composites Workshop. Committee comment will be provided.)
3:00 p.m.	Solar Sail Research and Technology Program (Purpose: To review recent progress in Materials and Structures research for Solar Sails for discussion and recommendations.)
4:00 p.m.	Technology Focal Points (Purpose: For the Chairman to report recent progress and RTAC reviews of this principle at NASA Centers.)

JUNE 9, 1977

Time	Topic
8:30 a.m.	IPAD Status Report (Purpose: To inform the Committee on recent progress in Integrated Programs for Aerospace Vehicle Design (IPAD) and results of the meeting of the Industry Technical Advisory Board (ITAB) for comment and recommendations.)
9:30 a.m.	NASA Center Reports (Purpose: NASA Center representatives on the Committee will report on recent progress on materials and structures technology development programs for Committee information.)
10:30 a.m.	Issues (Purpose: The Committee will discuss new items identified during Center and member report briefings and other parts of the meeting and determine future action.)
1:00 p.m.	Members' Reports (Purpose: To present reports of recent accomplishments in research and development programs in members' organizations for Committee information.)
2:30 p.m.	Plans for Next Meeting (Purpose: To discuss time, place, and agenda for next meeting.)
3:00 p.m.	Adjournment.

Dated: May 5, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.77-13501 Filed 5-11-77;8:45 am]

[Notice 77-32]

SPACE PROGRAM ADVISORY COUNCIL (SPAC) APPLICATIONS COMMITTEE

Meeting

The ad hoc informal Subcommittee on Satellite Telecommunications of the SPAC Applications Committee will meet on June 7, 1977, from 9:00 a.m. to 4:00 p.m. at NASA Headquarters, Federal Office Building 10B, Room 226A, 600 Independence Avenue SW., Washington, D.C. Members of the public will be admitted to the meeting at 9:00 a.m. on a first-come, first-served basis. The seating capacity of the room is 35 people. Visitors will be requested to sign a register.

This Subcommittee, comprised of 9 members of the SPAC Applications Committee including the Chairman, Mr. Thomas Rogers, serves in an advisory capacity only and will recommend a satellite telecommunications program to NASA.

For further information regarding the meeting, please contact Mr. Louis B. C. Fong, Washington, D.C. (202) 755-8617. The approved agenda for the meeting on June 7, 1977, is as follows:

Time	Topic
9:00 a.m.	Opening Remarks by Chairman.
9:30 a.m.	Satellite Telecommunications Program. The ad hoc informal Subcommittee on Satellite Telecommunications will continue its discussions and consideration of the National Research Council (NRC)-Space Applications Board report on "Federal Research and Development for Satellite Communications." The Subcommittee will attempt to arrive at preliminary findings and conclusions and to provide NASA with preliminary guidance on the direction(s) NASA's Satellite Telecommunications Program could take.
4:00 p.m.	Adjourn.

Dated: May 5, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.77-13502 Filed 5-11-77;8:45 am]

[Notice 77-30]

STRATOSPHERIC RESEARCH ADVISORY COMMITTEE

Meeting

The Stratospheric Research Advisory Committee will meet at the National Aeronautics and Space Administration Headquarters on May 31, and June 1, 1977. The meeting will be open to members of the public. The meeting will take place from 1:00 p.m. to 5:00 p.m. on May 31 and from 9:00 a.m. to 4:30 p.m. on June 1 in Room 6004 of Federal Office Building 6, 400 Maryland Avenue, SW, Washington, D.C. 20546.

The Stratospheric Research Advisory Committee advises NASA concerning the contents and direction of the NASA Upper Atmospheric Research Program. Topics under discussion at this meeting will include: Discussion of the Global Atmospheric Sampling Program (GASP) by the Lewis Research Center; Discussion of the Chlorofluoromethane Assessment Workshop Report; and Discussions of the Measurement Strategy for Stratospheric Research.

For further information regarding the meeting, please contact Dr. Shelby G. Tilford, Executive Secretary, at Area Code 202/755-3766, National Aeronautics and Space Administration, Washington, D.C. 20546.

KENNETH R. CHAPMAN,
Assistant Administrator for Department of Defense and Interagency Affairs, National Aeronautics and Space Administration.

MAY 5, 1977.

[FR Doc.77-13478 Filed 5-11-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARCHITECTURE AND ENVIRONMENTAL ARTS PROGRAM

Grant Guidelines

The following are guidelines for the Achitecture and Environmental Arts Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the Arts throughout the United States.

The Architecture and Environmental Arts Program application deadlines are included. Interested persons should contact Mr. Roy Knight, Acting Director,

Architecture and Environmental Arts Program, National Endowement for the Arts, Mail Stop 503, Washington, D.C. 20506 (202/634-4276) for further information.

Signed at Washington, D.C., on May 2, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

INTRODUCTION

The Architecture + Environmental Arts Program is concerned primarily with excellence in design. Funded activities relate to architecture, landscape architecture, urban design, city and regional planning, interior design, industrial design, fashion design, and other recognized design professions. The Endowment also supports allied professions which assist the design field. The program attempts to encourage creativity and to make the public aware of the benefits of good design.

Although the major objectives of the Endownment's Architecture + Environmental Arts Program remain unchanged, there are significant revisions in the granting categories and procedure for Fiscal Year 1978. The new categories are intended to allow greater flexibility in responding to requests for support.

This year all grant categories will share the same three deadlines. By this means the Endowment will be able to act quickly on ideas and opportunities which are submitted.

It is anticipated that competition for available funds will be keen. The Endowment looks for talent, creativity, innovation, clarity of purpose, efficient organization, and significant impact in its effort to promote the highest standards of design through this grant program.

For further information or clarification, contact the Architecture + Environmental Arts Program, Mail Stop 503, National Endowment for the Arts, Washington, D.C. 20506. Telephone: (202) 634-4276.

Grant category	Application deadlines for all applicants	Project beginning date
Profeasional fellowships in design.	June 14, 1977	Dec. 1, 1977
	Oct. 14, 1977	Mar. 1, 1978
Design Project Fellowships.	Feb. 2, 1978	June 1, 1978
Livable Cities		
Design and Communication.		
Cultural Facilities Research and Design.		
General programs	No deadline. Send letter of inquiry.	

GRANT CATEGORIES

Individuals

Professional Fellowships in Design

To assist practicing professional designers and planners of exceptional talent who seek time for personal development.

Design Project Fellowships

To assist exceptionally talented individuals in pursuit of specific design, research, or education projects.

ORGANIZATIONS

Livable Cities

To encourage exemplary design in our communities as an integral part of the planning process.

Design and Communication

To assist the development and dissemination of information about design for the public and the design professions.

Cultural Facilities Research and Design

To assist communities in the planning and design of exemplary cultural facilities; to encourage the commitment of local public and private money to carry out projects.

GENERAL PROGRAMS

To assist and contract for projects not specifically included in other grant categories.

GRANT CATEGORIES FOR INDIVIDUALS

PROFESSIONAL FELLOWSHIPS IN DESIGN

To assist practicing professional designers and planners of exceptional talent who seek time for personal professional development

Through fellowships awarded in this category, the Architecture and Environmental Arts Program seeks to assist creative individuals who have established a proven record of outstanding accomplishment at midcareer. The Endowment recognizes that heavy demands on the time of practicing designers often hinder attempts to develop their personal creative potential. This category is intended to provide support for time taken away from practice to be devoted solely to activity which will enhance the recipient's abilities or which will permit exploration of areas of interest or approaches to design new to the recipient.

Grants are awarded on the basis of past professional contribution and promise of future achievement. The applicant's proposed approach to self-development should be the subject of a brief project description. The Endowment will rely on the responsibility and motivation of the individual to make the most of this opportunity.

DESIGN PROJECT FELLOWSHIPS

To assist exceptionally talented individuals in pursuit of specific design, research, or education projects

The Endowment recognizes that many of the most important contributions to the field of design are made by creative individuals working independently. Thus, provision is made to assist those persons who have imaginative and valuable projects which they are both motivated and qualified to do.

These fellowships will support a broad range of projects such as: the exploration or testing of design concepts, the development and dissemination of ideas, or efforts to bring design issues and opportunities to public attention. Projects may deal with subjects on the scale of regions, neighborhoods, buildings, or products designed for individual consumer use.

Since this category is intended to support special projects, the individual applicant should explain the subject, methodology, and intended impact of the proposed work clearly and thoroughly. Evidence of qualification to complete the work in an effective manner is very important.

GRANT AMOUNTS

Non-matching grants of up to $10,000 are available for Professional Fellowships in Design and Design Project Fellowships.

ELIGIBILITY

General. Applications for grants to individuals must be submitted in the name of one person.

Generally, grants to individuals are made only to citizens or permanent residents of the United States.

Persons who are engaged in teaching are not eligible for Professional Fellowships in Design but are eligible in the Design Project Fellowships category. Professional Fellowships in Design and Design Project Fellowships may not be used to support an individual's formal professional education.

Professional Fellowships in Design. Applicants for Professional Fellowships in Design must have been continuously active as practicing professionals in any one of the design fields or allied professions for the past five years. Included are architecture, landscape architecture, city and regional planning, urban design, interior design, industrial design, fashion design, and other recognized design fields. Normally they should hold at least a bachelor's degree or the equivalent in an accredited professional curriculum, and hold a license for practice if required in the applicant's profession. However, other applicants who are qualified by virtue of outstanding performance as professionals will be considered.

Design Project Fellowships. If essential for completeness of a project, modest use of consultants is permitted in Design Project Fellowships. The individual applying, however, must carry out most of the work under any grant which may be awarded. (Projects which involve substantial participation of more than one person or include an organization must apply through a qualified organization; matching funds are required for such projects.)

GRANT CATEGORIES FOR ORGANIZATIONS

LIVABLE CITIES

To encourage exemplary design in our communities as an integral part of the planning process

There was a time in our history when civic pride, "boosterism," and competition to excel and be recognized for achievement prompted the towns and cities of this country to undertake civic projects that reflected the leadership and spirit of the public and private sectors. These projects stated, to both resident and visitor, the community's confidence and its vision of its own dynamic future seen for that community by its leaders. It was widely accepted that design provided the best medium for these public visions.

Times have changed and civic pride has all too often given way to a simplistic notion that bigger is better and that new is certainly preferable to old. However, increased environmental awarenes shas brought about a renewed interest in the quality of our built environment and in those peculiarities and features of our towns that reflect the differences of terrain, building materials, climate, and, above all, people.

Recently, citizen involvement with physical planning for neighborhoods and communities and cities have reinforced this mood. More and more the concepts of livability, human scale, variety of experience, and cultural opportunity have joined social and economic concerns as the foundation for a new civic movement.

Livable Cities expands the Endowment's urban design focus which in the past produced the National Theme Programs of City Edges, City Options, Cityscale, and the American Architectural Heritage Program. Livable Cities will embrace all of these earlier pro-

grams but will take a broader approach to urban quality that will more easily respond to the different design priorities and opportunities in our towns and cities. The emphasis of this category is upon creativity, energy, and cooperative spirit in the public and private sectors using design to work toward opportunities to improve communities.

Funds will not be available for construction, renovation, or capital investment. Matching grants will be awarded to promote design excellence in research, planning, and conceptualization of community projects. Projects which will be implemented in a manner that will assure significant and long-term impact are given the highest priority for funding. The following are some examples of project types and opportunities that could be supported under Livable Cities: [1]

Design of Special Public Places
Preserving Our Architectural Heritage
Design for the Pedestrian in Auto-Free Zones
Neighborhood Conservation and Enhancement
Open Space and Design for Recreation
Long Range Community Urban Design
Townscape Improvement
Enhancement of Rural Landscapes
Design Controls
Design in Transit Facilities
Creative Zoning and Building Codes
Community Design Services
Commercial District Revitalization
City Edge Conditions
Design Competitions
Graphic Design in the Environment
Waterfront Enhancement.

DESIGN AND COMMUNICATION

To assist the development and dissemination of information about design for the public and the design professions

The objective of this grant category is to facilitate good design through the development and communication of ideas and information about design. It is a grant category for public interest groups, community agencies, educational organizations and the design professions. It is intended to enable these groups to work together toward a wider appreciation of design and its more extensive application, while encouraging imagination and innovation.

The extent to which good design thinking is employed to improve our lives will be decided in terms of the quality of design the public demands and the professions provide. Thus, improvement of design depends on increasing public awareness, appreciation, and participation as well as strengthening talents and expertise within the professions.

The importance of good design may be assessed in terms of many decisions which everyone makes; the choice of a place to live, its design, the character of its setting, the quality of its furnishings.

Other issues often arise that require attention: improving an industrial district by landscaping; or preventing intrusion of an unacceptable structure into an old neighborhood; or transforming a languishing commercial district into a more lively place. These are matters of personal or public choices involving design and a need for good professional information and advice.

Under this category, a range of activity will be eligible, extending from the development of new ideas in a university setting or by research organizations, through programs of the professional societies to disseminate ideas, to professional or public gatherings to exchange and discuss ideas and strategies. Any form of communication medium may be incorporated in projects—publications, films, television broadcasts, et cetera. The audience must be clearly defined as well as the means for reaching it.

For this program:
The more significant the issue, the better.
The more imaginative the idea, the better.
The more complete and accurate the information, the better.
The wider the audience, the better.

CULTURAL FACILITIES RESEARCH AND DESIGN

To assist communities in the planning and design of exemplary cultural facilities; to encourage the commitment of local public and private money to carry out projects

The Architecture + Environmental Arts Program recognizes the need to develop cultural facilities in order to provide for increasing activity in the arts across the nation.

A small amount of money is available for design and planning assistance to groups which plan to build, replace or improve their physical facilities. The Endowment does not provide money for acquisition of real estate, construction, or repairs to buildings.

Grants are available for design and planning studies, research on aspects of facility design and management, feasibility studies, preparation of information to support promotion of a facility, planning for adaptive use of old buildings for arts-related use, and technical studies related to lighting, acoustical, and similar problems. The program places highest priority on projects which represent a compelling immediate need and which give promise of economic and social benefit to the community. Full documentation of programs and activities to be housed must be included in the application. Applicant organizations should also be keenly aware of the Endowment's interest in creative and imaginative design. Finally, the Endowment will seek to assist those projects which have the greatest promise of implementation.

GRANT AMOUNTS

Matching grants of up to $30,000 will be awarded; most, however, will be for less. Matching funds must be part of the approved budgeted project and spent within the period specified in the grant.

ELIGIBILITY

Grants are available to nonprofit, tax-exempt organizations, including universities, professional degree-granting institutions, state arts agencies, state and local governments, regional arts organizations, national service organizations in the fields of design.

Where two or more organizations are involved in a project, one must be designated the "Applicant Organization." This organization assumes the responsibility for receipt and disbursement of funds, administration, accounting, and reporting for any eventual grant. This responsibility includes providing information to other interested organizations concerning the status of the application and the progress of any project awarded a grant.

By statute, the National Endowment for the Arts is limited to the support of organizations which meet the following criteria:

a. Organizations in which no part of net earnings inures to the benefit of a private stockholder or individual and to which donations are allowable as a charitable contribution under Section 170(c) of the Internal Revenue Code of 1954, as amended. Two copies of the Internal Revenue Service determination letter for tax-exempt status must be submitted with each application.

b. Applicants receiving National Endowment for the Arts support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973, as amended, which bar discrimination in federally assisted projects on the basis of race, color, national origin, or handicap. Applicants receiving support from the National Endowment for the Arts who will be making payments for services to any person other than the grantee must comply with these requirements. Such grantees are required to file with the Grants Office an Assurance of Compliance form. The form on page 35 may be removed and completed for this purpose. Please enclose the completed form with your application and mail to: Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, DC 20506. If the applicant has filed an Assurance of Compliance form with the Arts Endowment within the last five years, in connection with a grant award, it is not necessary to complete the Assurance form at this time.

c. Organizations which compensate all professional performers, related or supporting professional personnel, laborers, and mechanics, on the basis of negotiated agreements which would satisfy the requirements of Parts 3, 5, and 505 of Title 29 of the Code of Federal Regulations, or the equivalent thereto as recognized by the appropriate union, for the duration of any projects supported in whole or in part by the National Endowment for the Arts.

IMPORTANT POINTS FOR ALL APPLICANTS

Applicants should consider carefully whether they have provided all necessary and pertinent information and supplementary documents. Those reviewing the application should have material sufficient to understand the nature of the project and the qualifications of the principals carrying out the project.

Listed below are some points that might be helpful to an organization preparing an application.

How will the project respond to a public need?

What assurance is there that the project will be carried out and will have a favorable impact on the community both aesthetically and economically?

Are there written endorsements demonstrating support for the project?

Is it clear that the proposed objectives can be achieved within the framework of realistic methodology, budget, and schedule while meeting the highest standards?

Have resumes been included demonstrating that those participating are qualified to achieve the project goals?

Is there minimum emphasis on the rental or purchase of equipment, travel, and similar items?

Are there assurances that the proposed project will not duplicate the efforts of others?

Is it clear why Endowment funds are essential to the project?

Is the location of the project indicated?

Is related information clarifying the scale and character of the project provided?

Is there a brief history of the project or organizations concerned?

Are illustrations which describe the project provided?

Have examples of work illustrating design capabilities of the principals in the project been included?

[1] The Endowment has a separate program to assist museums in preserving collections of aesthetic and cultural significance. The program seeks to encourage renovation of facilities for climate control, security, and storage in existing structures. For further information write: Museum Program, Stop 502, National Endowment for the Arts, Washington, D.C. 20506. Also, see reference to Challenge Grants, p. 7.

If there is a master plan to which the project is related, is a copy of the appropriate portion included?

GENERAL PROGRAMS

To assist and contract for projects not specifically included in other grant categories

The Endowment will consider proposals for projects which do not fit into any one or a combination of the categories listed. Through General Programs, the Endowment will continue to support the professional design organizations and State Arts Agencies which emphasize design. Grants will be awarded generally on a matching basis to organizations and on a non-matching basis to individuals.

In order to ensure budgetary flexibility, funds have been set aside to enable the Architecture + Environmental Arts Program to respond to new developments in the field of design.

Only applications which clearly do not fit under any other category may be submitted under this category and only upon recommendation of the Architecture + Environmental Arts Program.

FEDERAL DESIGN IMPROVEMENT PROGRAM

The Federal Design Improvement Program, coordinated by the National Endowment for the Arts, is an effort to achieve better architecture, environmental planning, and visual communication throughout government. It consists of four major elements:

The federal architecture project, a continuing study of the Guiding Principles of Federal Architecture that gives promise of establishing the basis for making government buildings inviting and attractive for the people who visit and work in them.

The graphics improvement program in which more than 50 departments and agencies are participating, and 45 are beginning to produce more readable, cost effective publications, establishing clearer communication between government and the people.

The design information program to educate and inform administrators and designers of the need for and advantages of integrating good design into the management process. Key activities include design assemblies, studio seminars, awareness workshops, and the newsletter Federal Design Matters.

The cooperative project with the Civil Service Commission to attract and recruit the best designers to government. The examination procedure has been modified extensively, and expert panels are evaluating portfolios to establish a list of the best available designers from which agencies can draw.

UNITED STATES/UNITED KINGDOM BICENTENNIAL EXCHANGE FELLOWSHIP PROGRAM

Under an agreement between the governments of Great Britain and the United States, a total of five Fellowships from the Architecture + Environmental Arts Program and other disciplines for work and study in the United Kingdom will be awarded each year to mid-career American artists who show a clear potential to become leaders in their respective fields. A similar number of British artists will receive awards to pursue their disciplines in the United States. The program, administered jointly in the United States by the National Endowment for the Arts and the Department of State, and in the United Kingdom by the British Council, will continue through 1981.

Fellowship grants of up to $15,000 are available to enable artists to pursue their disciplines in the United Kingdom. Each fellow will receive a monthly stipend of $1,600. Round-trip transportation will be provided for the fellow. Additional funds may also be made available for other extraordinary expenses directly associated with the Fellowship. There is no matching requirement.

US/UK Fellowships will normally be awarded for nine consecutive months in residence in the United Kingdom. Occasionally US/UK Fellowships will be considered for not less than six consecutive months. Applicants should propose plans that can take place between summer 1978 and spring 1979.

Applications will be accepted twice during the year. Applications must be postmarked no later than the following deadline dates: June 14, 1977; October 14, 1977.

Only applicants recommended by the Architecture + Environmental Arts Advisory Panel will be notified.

A representative of the American Selection Committee will write to recommended artists to obtain additional information by March 1978. Applicants applying for a US/UK Fellowship must complete three copies of the Individual Grant Application NEA–2 (Rev.) and submit them to the Grants Office, Mail Stop 500, National Endowment for the Arts, Washington, D.C. 20506.

For further information, please contact the Office of Special Projects, National Endowment for the Arts, Washington, D.C. 20506. Tel. 202 634–6020.

APPLICATION INFORMATION

CHALLENGE GRANTS

Contingent on receipt of appropriations, the Arts Endowment is planning a program of Challenge Grants. The purpose of these grants is to encourage cultural organizations to project and implement realistic plans for securing new and increased sources of continuing support and to assess their long-range goals.

Challenge Grants will be available to cultural institutions or groups of cultural institutions that have demonstrated a commitment to aesthetic quality and have programs of national or regional impact. It is expected that most recipients of Challenge Grants will also be grantees of other Programs of the Arts Endowment.

These grants will be awarded on a minimum 3 to 1 matching basis with each federal dollar generating at least three new and/or increased dollars from other sources. Grants are awarded on a one-time basis but may cover a period of up to three years.

The specific use of the Challenge Grant and matching funds is primarily at the discretion of the grantee. Possible uses of Challenge Grants are:

To meet increased operating costs;

To help eliminate accumulated debts;

To initiate or augment a cash reserve or an endowment fund;

To provide capital improvements for cultural facilities;

To assist a special one-time project which shows clearly that it will contribute to the basic strengthening of the grantee, and will have a beneficial impact on generating continued contributions from new and/or increased sources.

More detailed information may be obtained by writing: Challenge Grants, National Endowment for the Arts, Washington, D.C. 20506.

METHODS OF FUNDING

PROGRAM FUNDS METHOD

Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on the application (Organization Grant Application NEA–3 Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated source of matching must be identified. Budgeted funds, as well as newly raised funds, may be used for matching in all programs.

Example:

If an applicant requests from the Endowment	$30,000
Then applicant lists match of at least	30,000
And total project budget reflects at least	60,000

TREASURY FUND METHOD

When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other non-federal sources fo funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows non-federal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Gifts to the Endowment are generally deductible for federal income, estate, and gift tax purposes.

Gifts may be made to the Endowment for the support of a nonprofit tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant under its regular program guidelines—organizations such as a museum, a symphony orchestra, a dance, opera, or theatre company—or for an Endowment program, such as fellowships, touring, conferences, or workshops.

When a restricted gift is received, it frees an equal amount from the Treasury Fund, which is then made available to the grantee in accordance with the amount and conditions of the grant, as recommended by the National Council on the Arts and approved by the Chairman.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

How a Treasury Fund Grant is arranged. Those interested in giving for a specific purpose should note the step by step process described below.

1. If a project is eligible for consideration under the Architecture + Environmental Arts guidelines, the applicant submits to the Endowment a formal application, which may include a list of potential donors.

2. The application is reviewed first by the Architectural + Environmental Arts Panel and then by the National Council on the Arts and is recommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the applicant.

3. If the grant award is approved, the applicant then requests that the donors forward their gifts to the National Endowment for the Arts in the form of a gift transmittal letter specifying the amount and restricted purpose of the donation (i.e., the name of the applicant and specific project supported), and date by which payment will be made to the grantee organization (see below).

Handling procedures. In order to simplify handling procedures for restricted donations which are to be matched by the Treasury Fund, grant recipients will receive payment directly from the donor (in cash or negotiable securities) on all restricted Treasury

Fund gifts to the Endowment. Under this method, the following procedures apply:

1. Gift transmittal letter is received by the Endowment from donor with above specified information.

2. Upon receipt of payment on the gifts, grantee provides the Endowment with evidence of receipt of such payment as follows:

In the case of individual gifts of less than $5,000, grantee will forward to the Endowment a list of donors' names, addresses and amounts received, certified by an official of the organization and notarized.

In the case of individual gifts of $5,000 or more, grantee will forward to the Endowment, within the grant period, a photostatic copy of the instrument of payment, i.e. the check or negotiable securities, with a covering letter.

3. In cases where benefit proceeds are to be utilized for purposes of the Treasury Fund, evidence, such as benefit announcement circulars, invitations, posters, etcetera (which indicate donors had prior knowledge that their contributions would be used for the Treasury Fund) must be retained by grantee as evidence of donors' intent. In these cases, the grantee organization will forward to the Endowment, within the grant period, a notarized letter requesting release of the Treasury matching funds, signed by an appropriate official, certifying that the benefit was held on a specified date, yielded a specified sum for Treasury Fund gift purposes related to the grant in question, and that evidence of the benefit will be retained by grantee organization in its files.

4. In all cases, donors are to make payment on gifts at least 60 days prior to termination of the grant period, and grantee organizations will provide the Endowment with evidence of receipt of payment on gifts at least 30 days prior to the termination of the grant period.

The process in terms of money:

Donor's contribution(s) to Endowment	$25,000
Endowment match from the Treasury Fund	25,000
Total Endowment grant	50,000
Grantee's additional project cost	50,000
Minimum total budget of project	100,000

PERIOD OF SUPPORT

A grant is awarded for the specfied period of time which you indicate in the appropriate space on the application form. We request that this grant period not exceed one year. In scheduling the starting date for your project, please take into account the fact that payment does not accompany the grant award letter. You must complete the Cash Request form enclosed with the letter and return it to the Endowment for processing. This generally requires three to four weeks.

PROJECT LOCATION

Generally all projects supported by the Endowment must be performed within the fifty states, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands. Exceptions may be made if full justification is provided in terms of benefits accruing to the United States.

APPLICATION REVIEW PROCEDURE

Architecture and Environmental Arts staff refer all applications to an advisory panel composed of outstanding representatives on the design and planning fields. The recommendations of this panel are submitted to the National Council on Arts, an advisory group of 26 persons appointed by the President of the United States and the Chairman of the National Endowment for the Arts. The National Council reviews and makes recommendations on applications to the Chairman of the National Endowment for the Arts. The applicant is then notified by letter concerning final action taken by the Chairman of the Endowment.

Information regarding action taken on applications cannot be made available until after the groups listed above have made their recommendations and the Chairman of the Endowment has reached a final decision. Applicants are requested not to seek information on the status of their requests.

REQUIRED MATERIALS TO BE SUBMITTED WITH APPLICATION FORMS

1. A minimum of three letters of endorsement pertaining to the project purposes and the qualifications of participants.

2. Resumes for the individual applicant or major participants in organization projects.

3. Two copies of the organization's Internal Revenue Service determination letter for tax-exempt status. Although this letter may have been submitted previously, it must be submitted with each application.

4. Signed copy of the Assurance of Compliance with the Regulations of the Civil Rights Act of 1964 form if one has not been submitted, in connection with a grant award, during the last five years.

SUBMISSION OF APPLICATIONS

If, after thorough review of these guidelines, you feel that you are eligible for a grant within the scope of the Architecture and Environmental Arts Program, please complete three copies of either the Individual Grant Application NEA-2 (Rev.) or the Organization Grant Application NEA-3 (Rev.) form. Application forms and a sample form are provided in the back of this booklet. It is suggested that you familiarize yourself with the sample form before completing your application.

The application and all other materials relating to the project should be submitted to: Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, D.C. 20506.

INQUIRIES

All inquiries regarding scope and application procedures for Architecture and Environmental Arts grants should be directed to:

Architecture and Environmental Arts Program (Mail Stop 503), National Endowment for the Arts, Washington, D.C. 20506, 202-634-4276.

Questions related to grant conditions and budgets should be directed to:

Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, D.C. 20506, 202-634-6160.

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, we wish to furnish you with the following information:

Section (5) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954), authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and for statistical research and analysis of trends. The routine uses for which this information can be used and the purposes of such use are general administration of grant review process, statistical research, congressional oversight, and analysis of trends.

Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what is can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (Pub. L. 90-480) legislation that would require all public buildings constructed, leased, or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

NOTE ON PUBLICATIONS

The National Endowment for the Arts strongly encourages grantees who produce books or other publications for dissemination to take advantage of the free cataloging service of the Cataloging-in-Publication Office of the Library of Congress.

Cataloging-in-Publication provides publishers with cataloging data to be printed in the book. Having the data in the book speeds up the library cataloging process and gets the book into immediate circulation—to the benefit of author, publisher, and reader.

For procedural information call or write to:

Library of Congress, Descriptive Cataloging Division, Cataloging-in-Publication Office, Washington, D.C. 20540, Tel. (202) 426-6372.

[FR Doc.77-13366 Filed 5-11-77;8:45 am]

National Endowment for the Humanities

ADVISORY COMMITTEE ON SCIENCE, TECHNOLOGY AND HUMAN VALUES

Partially Open Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Endowment for the Humanities announces the following meeting:

Name: Advisory Committee on Science, Technology and Human Values (STHV) Meeting in Collaborative Session with the Advisory Committee on Ethics and Values in Science and Technology (EVIST) of the National Science Foundation.

Date: June 3, 1977.
Time: 9:30 a.m.–11:45 a.m., 12:30 p.m.–5:00 p.m.
Place: Room 540, National Science Foundation, 1800 G Street, N.W. Washington, D.C.
Type of meeting: Part-open.
Contact person: Dr. Richard Hedrich, Coordinator, Program of Science, Technology and Human Values, Office of Planning and Analysis, National Endowment for the Humanities, Washington, D.C. 20506. (Telephone 202–382–5996). Individuals planning to attend are requested to notify Dr. Hendrich by May 27.

Purpose of Advisory Committee: To provide advice and recommendations concerning support of scholarly activities in the filed of ethical and human value relationships to developments in science and technology, in conjunction with cooperative programs of the National Endowment for the Humanities (NEH) and the National Science Foundation (NSF).

AGENDA

9:30 a.m.–11:45 a.m. (open)
Reports and Discussion on NSF and NEH Programs
NSF—Office of Science and Society
Public Understanding of Science
Science for Citizens
Ethics and Values in Science and Technology
NEH—Program of Science, Technology and Human Values
12:30 p.m.–5:00 p.m. (Closed) Consideration of applications.

Reason for closing: The categories and quality of applications presently under consideration for funding will be discussed. This will involve consideration of individual proposals currently being reviewed which include information of a proprietary or confidential nature; including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552c(b), Freedom of Information Act.

Authority to close: The determination made by the Committee Management Officer pursuant to provisions of Section 10(d) of Public Law 92–463, as amended.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13495 Filed 5–11–77;8:45 am]

EDUCATION PROGRAMS PANEL

Meeting

MAY 5, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Education Programs Panel will convene at 9:00 a.m. each day in Rooms 1023 and 1025 at 806 Fifteenth Street NW., Washington, D.C., on June 2 and 3, 1977.

The purpose of the meeting is to review Projects applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552 b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 Fifteenth Street NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13496 Filed 5–11–77;8:45 am]

RESEARCH GRANTS PANEL

Meeting

MAY 5, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806–15th Street NW., Washington, D.C. 20506, in Room 1130, from 9 a.m. to 5:30 p.m. on June 2 and 3, 1977.

The purpose of this meeting is to review applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects beginning October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552 b(c) and that it is essential to close the meeting to protect the free exchange on internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506 or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13494 Filed 5–11–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–318]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR–69, issued to Baltimore Gas and Electric Company (the licensee), which revised the license and its appended Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 2 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

This amendment modified the Technical Specifications of the facility in order to have its specifications consistent with the Technical Specifications recently approved for Calvert Cliffs Nuclear Power Plant Unit No. 1. This consistency is necessary because these units are essentially identical and both units share a common control room. This amendment also incorporated a number of miscellaneous editorial changes.

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 March 3, 1977, as supplemented by letter dated March 24, 1977, (2) Amendment No. 6 to License No. DPR–69, 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 NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678. A single 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 22nd day of April 1977.

For the Nuclear Regulatory Commission.

PAUL W. O'CONNOR,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-13216 Filed 5-11-77;8:45 am]

[Docket No. 50-389]

FLORIDA POWER AND LIGHT CO. (ST. LUCIE PLANT UNIT NO. 2)

Issuance of Construction Permit

Notice is hereby given that, pursuant to the Atomic Safety and Licensing Board's Partial Initial Decision, Supplement to the Partial Initial Decision, and Initial Decision dated February 28, 1975, April 25, 1975, and April 19, 1977, respectively, the Nuclear Regulatory Commission (the Commission) has issued Construction Permit No. CPPR-144 to the Florida Power and Light Company (the Applicant) for construction of a pressurized water nuclear reactor at the applicant's site on Hutchinson Island in St. Lucie County, Florida. The proposed reactor, known as the St. Lucie Plant Unit No. 2 (the facility) is designed for a rated power of 2570 megawatts thermal with a net electrical output of 810 megawatts.

The Initial Decision dated April 19, 1977 is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

Construction Permit No. CPPR-144 includes the condition that the permit is subject to the outcome of the proceedings in *Natural Resources Defense Council* v. *NRC*, (D.C. Circuit, July 21, 1976) Nos. 74-1385 and 74-1586. In addition, the construction permit includes antitrust conditions which have been agreed to by Florida Power and Light Company in a letter to the Commission dated March 18, 1977. This construction permit, however, is issued subject to further action as may be deemed appropriate by the Commission as a result of an antitrust proceeding involving this facility now pending before an Atomic Safety and Licensing Board initiated by a group of Florida cities.

The construction permit is effective as of its date of issuance. The earliest date for the completion of the facility is August 1, 1982, and the latest date for completion is February 28, 1984. The permit shall expire on the latest date for completion of the facility.

A copy of (1) the Partial Initial Decision, dated February 28, 1975; (2) the Supplement to the Partial Initial Decision, dated April 25, 1975; (3) the Initial Decision, dated April 19, 1977; (4) Construction Permit No. CPPR-144; (5) the report of the Advisory Committee on Reactor Safeguards, dated December 12, 1974; (6) the Office of Nuclear Reactor Regulation's Safety Evaluation Report dated November 7, 1974; and (7) Supplements 1 and 2, thereto, dated March 3, 1976 and April 27, 1976, despectively; (8) the Applicant's Environmental Report dated August 1973 and supplements thereto; (9) the Draft Environmental Statement dated February 1974; and (10) the Final Environmental Statement dated May 1974 are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. Single copies of items (4), (6), (7) and (10) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 2d day of May, 1977.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc.77-13217 Filed 5-11-77;8:45 am]

[Docket No. 50-251]

FLORIDA POWER AND LIGHT CO. (TURKEY POINT PLANT UNIT NO. 4)

Order for Modification of License

I

The Florida Power and Light Company (the Licensee), is the holder of Facility Operating License No. DPR-41 which authorizes the operation of the nuclear power reactor known as Turkey Point Unit No. 4 (the facility) at steady state reactor power levels not in excess of 2200 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site in Dade County Florida.

II

On February 8, 1977, the Nuclear Regulatory Commission ordered Turkey Point Unit No. 4 be brought to a cold shutdown condition in order to perform an inspection of steam generators at the end of the current fuel cycle or within 120 equivalent days of power operation from February 8, 1977, whichever occurs first. Among other operational limitations, the NRC order specifically required that the reactor operation shall be terminated if primary to secondary leakage which is attributable to two (2) or more tubes per plant occurs during a twenty (20) day period. Nuclear Regulatory Commission approval was required before resuming reactor power operation after such a shutdown.

On March 20, 1977, the unit was shut down to plug a leaking tube in steam generator C of Unit No. 4. During this outage, a second leaking tube was discovered and was also plugged. The tube leaking incident was first observed in mid-February and progressed very slowly over a period in excess of one month. The leakage behaved in a predicted fashion and had no safety consequences not previously evaluated.

After discussions with the NRC staff, with respect to the licensee's assessment that continued facility operation with the identified leaks plugged would not endanger public health and safety and did not require specific aproval under the provisions of the Order, the Unit was returned to operation on March 25, 1977.

On April 25, 1977, the licensee informed the NRC that they had detected another leak with an equivalent leakage rate of about 0.04 GPM. By April 27, 1977, the leakage rate had progressed to 0.14 GPM and the Unit was shutdown for investigation. On April 28, 1977, the NRC staff was informed that the leaking tubes were identified on the C steam generator (row 2—column 47, row 2—column 61 and row 3—column 62). These three tubes are located near the inner tube lane in a "hard spot" between flow slots. The elevations of these leaks have been determined to be at the fourth and the fifth support plates.

By letter dated April 29, 1977, the licensee submitted: (1) results of their inspection of the three leaking tubes and (2) their safety evaluation of the latest tube leak incident. In addition, the licensee requested NRC approval to resume power operation for the remaining fuel cycle, which was estimated to be about fifteen (15) equivalent days. The NRC staff has reviewed the submitted information and concurs that the resumption of power operation by Turkey Point Unit No. 4, will not present a significant risk to the public health and safety.

The information developed by the licensee's inspection indicates that the leaks are attributed to tube denting. The leaking tubes are located in "hardspot" regions where tube denting is predicted to be more severe than in other areas of the tube bundle. The leaks were located at about the level of the tube support plates.

All leaks associated with dented tubes experienced to date have been small, well below the leakage limits established by license condition or Technical Specification. The leakage rate progresses slowly and is detectable. Tube cracks which result from severe denting are constrained within the tube support plates; and, thus, any leaks caused by this type of crack will be limited even under accident conditions.

Although there may be an additional leak that may develop during operation during the remaining short period until the scheduled refueling outage, the limits on primary to secondary leakage rate will assure that such leaks do not become large enough to be unstable under accident loadings.

Moreover, the probability of having either a loss-of-coolant-accident or a main-steam-line-break accident is estimated to be extremely low in the fifteen (15) days remaining in the fuel cycle. For these reasons there is reasonable assurance that until the forthcoming refueling outage (scheduled to commence in about 15 days), continued operation will not endanger the health and safety of the public.

Of more significance in the long term is the need to carefully assess the condition of the steam generators and to determine to the extent possible causes for the continuing occurences of leakage in the facility. FP&L has proposed to conduct a thorough inspection and evaluation of the steam generators during the forthcoming refueling outage. The proposed program has been and continues to be discussed with the NRC staff to assure staff concurrence with the program. In this connection, FP&L originally attributed the March leak to corrosive conditions in the area between the first tube support plate and the tubesheet, whereas the most recent leaks were attributed to denting. Since these two different conditions require different assessments and treatment, it is important to identify the causes of leaks which have occurred. After discussions with the staff, the licensee has committed to pull and metallurgically evaluate at least one tube from a steam generator from Unit No. 4 during the forthcoming refueling outage. The entire tube should be pulled and should be metallurgically examined at each area of suspected degradation but at least at each tube/tube sheet or tube/support plate intersection. Preferably the selected tube should be R–45C53 in Steam Generator C, the tube which leaked in March. If this tube cannot reasonably be removed, a tube which has experienced a leaking dent is to be pulled and metallurgically examined, as described above instead.

This examination will provide an important contribution to the identification of the causes of leakage in Turkey Point Unit No. 4 and will substantially enhance the ability to assess the safety significance of such leakage.

. Based on our review as discussed above, the staff has determined that the time and operating limitations contained in our Order of February 8, 1977 (as supplemented by the Safety Evaluation dated February 11, 1977) will provide reasonable assurance that the public health and safety will not be endangered by continued operation of Unit No. 4. The NRC staff believes that we should confirm by an Order, which supplements our Order of February 8, 1977, our approval for Unit No. 4 to resume operation.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida: (1) the licensee's submittal dated April 29, 1977, (2) the Order for Modification of License, In the Matter of Florida Power and Light Company (Turkey Point Plant Unit No. 4), Docket No. 50–251 dated February 8, 1977, (3) our Safety Evaluation Report applicable to our Order dated February 8, 1977, dated February 11, 1977 and (4) This Order for Modification of License, In the Matter of Florida Power and Light Company (Turkey Point Plant, Unit No. 4), Docket No. 50–251.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Part 2 and 50, *It is ordered That* Facility Operating License No. DPR–41 is hereby amended by granting approval for the resumption of reactor operation in accordance with the provisions of our Order for Modification of License dated February 8, 1977 provided that the reactor is operated within the following provisions.

1. Unit No. 4 shall be brought to the cold shutdown condition in order to perform an inspection of the steam generators at the end of the current fuel cycle or within 120 equivalent days of operation from February 8, 1977, whichever occurs first. Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection.

For the purpose of this requirement, equivalent operation is defined as operation with a primary coolant temperature greater than 350° F.

2. Unit No. 4 shall be operated within the additional operating limitations and provisions listed in our Order for Modification of License dated February 8, 1977 (as supplemented by our Safety Evaluation Report dated February 11, 1977).

Dated in Bethesda, Maryland this 3rd day of May 1977.

For the Nuclear Regulation Commission.

EDSON G. CASE,
Acting Director,
Office of Nuclear Reactor Regulation.

[FR Doc.77-13218 Filed 5-11-77;8:45 am]

[Docket No. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 20 and 14 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

The amendments revised the Technical Specifications for the facilities to remove the requirement for conducting a liquid penetrant test of the reactor vessel head cladding during the first 40-month inspection period.

The application for the amendments 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 amendments dated March 31, 1977, (2) Amendment Nos. 20 and 14 to License Nos. DPR–42 and DPR–60, respectively, 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, NW., Washington, D.C., and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single 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 18th day of April 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-13219 Filed 4-11-77;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. NPF–1 issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power & Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

This amendment (1) revises Figure 5.1–1 of Appendix A to correctly show the location and designation of the two meteorological towers, and (2) revises Table 3–1 of Appendix B to show that the annual chemical usage limit is based on boron, not boric acid.

The applications for the amendment comply 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 the amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 11, 1977, (2) Amendment No. 16 to License No. NPF-1, and (3) the Commission's letter to Portland General Electric Company dated April 27, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon, 97051. 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 April 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-13220 Filed 5-11-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.99, Revision 1, "Effects of Residual Elements on Predicted Radiation Damage to Reactor Vessel Materials," provides guidance for predicting the effect of neutron irradiation on the wall of the steel reactor vessel. Impurities, or "residual elements," particularly copper and phosphorus, in the steel increase the amount of neutron-induced embrittlement, and the guide describes how to predict the amount of embrittlement as a function of the amount of these impurities and the amount of time the plant has operated. It also provides guidance for choosing a radiation-resistant steel for future plants. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 27th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-13224 Filed 5-11-77;8:45 am]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the license for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (SO-1) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment incorporates provisions in the Technical Specifications, required for operation of SO-1 with the refueled Cycle VI Core, with the new onsite emergency power system, with modified ECCS features, and with the new sphere enclosure and associated modifications in conjunction with a reduced SO-1 exclusion area boundary. The amendment also adds a license condition which requires the steam generator to be reinspected within 12 months from the date of the amendment. The staff has also reviewed the seismic modifications made by the licensees and has found that continued operation with these modifications is acceptable.

Based on the determination discussed in the Safety Evaluation, relating to this amendment, an exemption to the single failure requirement in 10 CFR Part 50, Appendix A, General Design Criterion 35 is granted for SO-1 pursuant to 10 CFR Part 50, § 50.12 and operation until October 1, 1977 without a backup air supply for the pneumatic flow control valves FCV-1116D, E and F is authorized.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with the new sphere enclosure and associated modifications in conjunction with a reduced SO-1 exclusion area boundary was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1332). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. Prior public notice of the other items associated with this amendment was not required since they do 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 applications for amendment dated June 15, September 23, 1976 and January 18, 1977, (2) Amendment No. 25 to License No. DPR-13, 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 NW., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, 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 1st day of April 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-13221 Filed 5-11-77;8:45 am]

[Docket No. 50-346]

THE TOLEDO EDISON CO. AND THE CLEVELAND ELECTRIC ILLUMINATING CO. (DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1)

Issuance of a Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. NPF-3 to the Toledo Edison Company and The Cleveland Electric Illuminating Company authorizing operation of the Davis-Besse Nuclear Power Station, Unit No. 1 by the Toledo Edison Company in accordance with the provisions of the license and the Technical Specifications. The Davis-Besse Nuclear Power Station, Unit No. 1 is a pressurized water nuclear reactor located at the licensees' site on the southwestern shore of Lake Erie in Ottawa County, Ohio, approximately 21 miles east of Toledo, Ohio.

However, the facility is temporarily restricted from operating at full rated power until certain tests and other items noted in the license conditions are completed to the written satisfaction of the Commission.

In accordance with the Commission's March 14, 1977 issuance of an effective interim rule regarding the environmental considerations of the uranium fuel cycle (42 FR 13804), the staff has examined the revised impact values contained in Table S-3 of 10 CFR Part 51 to determine the effect on the cost-benefit balance previously performed for this facility. This examination is set forth in the "Environmental Assessment, Davis-Besse Nuclear Power Station, Unit No. 1, Fuel Cycle Considerations. The staff has concluded that the use of the revised values does not tilt the cost-benefit balance so as to change the staff's original conclusion to issue an operating license presented in the Final Environmental Statement related to operation of the Davis-Besse Nuclear Power Station, Unit 1 (October 1975).

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The Commission has also made appropriate findings which are set forth in the license regarding the environmental impacts associated with operation of the facility. The license also includes the condition that the license is subject to the outcome of the proceedings in *Natural Resource Defense Council* v. *NRC* (D. C. Circuit) (July 21, 1976), Nos. 74-1385 and 74-1586. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The license is effective as of its date of issuance and shall expire on March 24, 2011.

This action is in furtherance of the licensing action encompassed in the Notice of Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing published in the FEDERAL REGISTER on April 30, 1973 (FR 10661).

A copy of (1) Facility Operating License No. NPF-3, complete with Technical Specifications (Appendices "A" and "B" Attachment 1) and Preoperational Tests, Startup Tests and Other Items Which Must Be Completed Prior to Proceeding to Succeeding Operational Modes (Attachment 2); (2) the report of the Advisory Committee on Reactor Safeguards, dated January 21, 1977; (3) the Office of Nuclear Reactor Regulation's Safety Evaluation and Supplement 1 dated December 9, 1976 and April 1977, respectively; (4) the Final Safety Analysis Report and amendments thereto; (5) the applicant's Environmental Report dated December 20, 1974 and supplements thereto; (6) the Draft Environmental Statement dated April 1975; (7) the Final Environmental Statement dated October 1975; and (8) the Environmental Assessment on Fuel Cycle Considerations are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of the license and items (2) and (8) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation (Document No. NUREG-0136) and its Supplement No. 1, and Final Environmental Statement (Document No. NUREG-75/097) may be purchased at current costs, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 22nd day of April 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-13222 Filed 5-11-77;8:45 am]

[Dockets Nos. 50-266 and 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 25 and 30 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

These amendments consist of changes in the Technical Specifications that will revise the Nuclear Enthalpy Rise Hot Channel Factor ($F^N\Delta_H$) limits to account for the effect of fuel rod bowing on departure from nucleate boiling.

The application for the amendments 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 amendments dated January 6, 1977, (2) Amendment No. 25 to License No. DPR-24, (3) Amendment No. 30 to License No. DPR-27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, ATTN: Mr. Arthur M. Fish, Stevens Point, Wisconsin 54481.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of May 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc.77-13223 Filed 5-11-77;8:45 am]

[Docket No. 50-389A]

FLORIDA POWER & LIGHT COMPANY (ST. LUCIE, UNIT 2)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding:

Alan S. Rosenthal, Chairman
Richard S. Salzman
Jerome E. Sharfman

Dated: May 5, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-13756 Filed 5-11-77;8:45 am]

[Docket No. P-564A]

PACIFIC GAS AND ELECTRIC COMPANY (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding:

Jerome E. Sharfman, Chairman
Michael C. Farrar
Richard S. Salzman

Dated: May 5, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-13756 Filed 5-11-77;8:45 am]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK (GREENE COUNTY NUCLEAR POWER PLANT)

Hearing

An Atomic Safety and Licensing Board of the U.S. Nuclear Regulatory Commission (Commission) and a Presiding Examiner and Associate Examiner of the Board on Electric Generation Siting and the Environment of the State of New York (Siting Board) will conduct a joint hearing for the purpose of receiving evidence on the following subjects:

(1) Alternative uses of waste heat;
(2) Transmission line location and related environmental impacts;
(3) Alternative sources of power;
(4) Financial qualifications.

The hearing will be held at the offices of the Public Service Commission, Agency Building No. 3, Empire State Plaza, Albany, New York, beginning at 1:00 p.m. on Monday, May 16, 1977, and continuing, if necessary, through the following week. The public is invited to attend.

Dated at Bethesda, Maryland this 4th day of May, 1977.

For the Atomic Safety and Licensing Board.

JOHN F. WOLFE,
Chairman.

[FR Doc.77-13757 Filed 5-11-77;8:45 am]

[Docket Nos. 50-443, 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)

Hearing

A hearing in the above-entitled matter previously scheduled for March 22, 1977, will take place beginning May 23, 1977, at 9:30 a.m., in the Superior Courtroom of the Hillsborough County Courthouse, 19 Temple Street, Nashua, New Hampshire. Parties are directed to file any direct expert testimony no later than May 13, 1977.

Pursuant to Commission's Regulations 10 CFR § 2.715, limited appearances will be allowed at the outset of the hearing provided that a limited appearance will be no more than five minutes in length and will deal solely on the matter of cooling towers. Parties seeking to make such limited appearances need not appear in person but may submit their statements in writing.

It is so ordered.

Dated this 5th day of May 1977 at Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.77-13758 Filed 5-11-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR-77-19]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Brief Reports of Civil Aviation Accidents, 1975.—The National Transportation Safety Board on April 29 released a series of 11 reports which compile 1975 civil aviation accidents into various categories, ranging from midair collisions to the role of alcohols as a cause factor in aviation accidents. Each publication consists of a computer printout, listing the basic facts of an accident, the probable cause, and contributing factors, if any. Statistical tables analyzing the accidents by type, injury, and cause also are included.

Ten of the publications cover general aviation—business and private flying. The eleventh publication, "List of Aircraft Accidents/Incidents by Make and Model" (Report No. NTSB-AMM-77-1), includes both airline and general aviation.

The 10 general aviation publications are entitled: Briefs of Accidents Involving—

Midair Collisions (NTSB-AMM-77-2)
Turbine Powered Aircraft (NTSB-AMM-77-3)
Rotorcraft (NTSB-AMM-77-4)
Weather as a Cause/Factor (NTSB-AMM-77-5)
Alcohol as a Cause/Factor (NTSB-AMM-77-6)
Missing and Missing-Later-Recovered Aircraft (NTSB-AMM-77-7)
Corporate/Executive Aircraft (NTSB-AMM-77-8)
Amateur/Home Built Aircraft (NTSB-AMM-77-9)
Air Taxi Operations (NTSB-AMM-77-10)
Aerial Application Operations (cropdusting) NTSB-AMM-77-11)

Single copies of these publications may be obtained without charge by writing to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Multiple copies may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

NEW AVIATION SAFETY RECOMMENDATIONS

A-77-18 and 19, issued May 4 to the Federal Aviation Administration.—Last August 6, an Air Chicago Freight Airlines, Inc., North American TB-25N, N9446Z, operating with a limited category airworthiness certificate, crashed while attempting an emergency landing at Midway Airport, Chicago, Illinois. The Safety Board's investigation indicated that the flight was conducted to prepare a pilot for a B-25 type-rating examination; only the trainee and an instructor pilot were aboard. About 5 minutes after takeoff, the pilot advised Midway tower, "Emergency, request straight in 446Z." This was the last radio transmission from the aircraft. Some 35 seconds later, the pilot of another aircraft reported that the B-25 had crashed.

Board investigation revealed that a massive internal failure in the left engine resulted in a fire which was not contained and could not be extinguished by the engine's fire extinguisher system. The fire spread, causing large amounts of smoke and combustion products to enter the cockpit, and apparently caused the flightcrew to lose control of the aircraft. The Board could not determine the precise reason for the engine failure.

The Safety Board reviewed the maintenance procedures used by the company and found that, although the aircraft was inactive following its purchase in July 1974 until February 1976, the engines had not been prepared for long-term storage or preoiled, as recommended by the manufacturer, before they were started in February 1976. A special surveillance program of large and transport category aircraft is currently being implemented by FAA's Southern Region, whereby relatively old and inactive aircraft are grounded for obvious maintenance deficiencies. The Board believes that such a program will be most effective in reducing the utilization of unairworthy aircraft in flight operations. However, in view of the evidence gathered in the investigation of the Air Chicago crash, the Board recommends that FAA—

Expand the program currently in effect in FAA's Southern Region to include vintage and military surplus aircraft and rotorcraft, and expand the program to include all FAA Regions. (A-77-18)

Review existing maintenance requirements to determine that those in effect are sufficient to assure the maximum level of safety in the operation of surplus and vintage aircraft and rotorcraft. (A-77-19)

A-77-20 through 22, issued May 2 to the Federal Aviation Administration.—Last January 3, a Cessna 310J crashed at Rockford, Illinois, during an instrument approach after a 1 hour 49 minute flight. The pilot reported during the approach that he had lost all power from both engines. Examination of the engines disclosed neither mechanical failures nor any other reason for the power loss. Safety Board investigators determined that both fuel selector valves were in the auxiliary tank position.

The usable fuel capacity of the auxiliary tanks is 80 gallons. If in cruise 28 to 30 gallons per hour is consumed, the Board concludes that a pilot might reasonably expect to cruise for an hour using the auxiliary tanks. However, the fuel injection system bypasses and returns approximately half the fuel delivered by the engine-driven pump. In the Cessna 300 and 400 series airplanes, the bypassed fuel is returned only to the main tank, in effect reducing the endurance on auxiliary tanks in the Cessna 310 to approximately 30 minutes.

Cessna has advised the Board that their test pilots and marketing personnel consider the auxiliary tanks suitable for only 30 minutes' operation. However, the owner's manuals for the various models of the 310 series do not provide enough specific information for the pilot to determine the auxiliary tank's endurance, except through trial and error. Earlier manuals generally contained more information than later ones, and the manual for the 310J is least descriptive of all. Thus, a pilot might easily assume that he could operate for an hour on auxiliary tanks, then run out of fuel after just 30 minutes. The Safety Board believes that such was the case in this accident.

A review of Cessna 310 accidents involving fuel starvation for the years 1966 through 1976 disclosed 10 accidents in which early depletion of auxiliary fuel most likely was the reason for fuel starvation. Believing that the pilot should be given more specific information regarding the actual operating time using auxiliary fuel tanks, the Safety Board recommends that FAA—

Issue an Airworthiness Directive requiring that all Cessna Model 310 airplanes with an auxiliary fuel system installed be placarded, in the cockpit, to caution pilots that only 30 minutes flight time may be available when using auxiliary tanks. (A–77–20)

Require, for all new airplanes in which some auxiliary fuel is returned to tanks other than the auxiliary tanks, that the flight manual or approved manual material specifies the amount of fuel returned to another tank and the flight time available when using the auxiliary tanks. (A–77–21)

Require that district accident prevention specialists disseminate this information as widely as possible among pilots of the Cessna 310. (A–77–22)

SAFETY RECOMMENDATION RESPONSES

From the Federal Aviation Administration re A–77–9 and 10.—Letter of April 26 is in answer to recommendations resulting from investigation of the collision last September 13 between a Cessna 414 and a U.S. Air Force F–4E Phantom II Fighter near Brighton, Florida. (See 42 FR 10915, February 24, 1977.)

Recommendation A–77–9 asked FAA to establish direct lines of communication between appropriate air traffic control facilities and military tactical operations to relay essential tactical information to military flightcrews being afforded instrument flight rules separation in positive control airspace.

FAA concurs with the intent of A–77–9, but does not agree with the proposed method of implementation. FAA states: "Requiring air traffic control facilities to relay tactical information to military flightcrews could seriously derogate the controller's ability to provide essential ATC services to other users." FAA is initiating action, with the Department of Defense, "to explore alternative methods of accomplishing the intent of this recommendation without amplifying the crucial problems associated with frequency congestion."

Recommendation A–77–10 asked FAA to assure ultrahigh frequency (UHF) guard-transmitting and receiving capability at all control positions where air traffic control services are provided routinely to military tactical flights.

In response to A–77–10, FAA states: "* * * increasing the number of UHF guard sites can create a problem that derogates our capability to communicate on 243.0 MHz. The problem occurs when two or more sites cannot hear each other transmitting due to terrain, shielding, etc. Since they cannot receive each other, they could attempt to respond to aircraft transmissions simultaneously, creating interference or garbling which effectively blocks all transmissions. This condition could completely negate our capability to respond to the aircraft in distress."

FAA reports that it currently has methods, other than direct pilot/controller capability, of communicating with aircraft on 243.0 MHz, i.e., relaying through FAA terminal facilities, flight service stations, or military facilities. FAA said: "These methods have proven to be both reliable and effective. In any event, any extensive increase in UHF guard capability at control positions would require careful evaluation on a cost versus benefit basis."

FAA states that it is now investigating the "possibility of configuring one Back-up Emergency Communications UHF controller station per center's area of specialization (where there is significant military activity) to cycle to 243.0 MHz rather than the sector discrete frequency. We believe that this will significantly increase our UHF guard capability."

From the Materials Transportation Bureau re P–76–101.—Letter of April 22 concerns a recommendation, issued jointly to the Secretary, U.S. Department of Transportation, and to the State of Maine Public Utilities Commission, which resulted from Safety Board investigation of the Maine Utility Gas Company's liquified petroleum gas accident at Bangor, Maine, last August 13. (See 42 FR 5158, January 27, 1977.)

Recommendation P–76–101 called for DOT, in conjunction with the Maine Public Utilities Commission, to monitor the compliance actions taken by Maine Utility Gas Company to insure that it has established operations and maintenance records as required by 49 CFR Part 192.

MTB reports that it met last October 19 with the Maine Public Utilities Commission and with the Maine Utility Gas Company. Details of the Bangor failure were discussed and, MTB states: "* * * it appears that the Maine UGC has not been complying with certain sections of the Federal regulations for the 'Transportation of Natural and Other Gas by Pipeline,' 49 CFR Part 192. Clarification of those noncompliance items is still under investigation."

MTB further states that it will "continue to monitor the Maine PUC to insure that the appropriate compliance action is taken and that Maine UGC will be required to maintain and implement the appropriate operations and maintenance records."

Also in connection with recommendation P–76–101 it is to be noted that on April 20 the Maine Public Utilities Commission forwarded to the Safety Board a copy of its formal decision, dated April 19, 1977, requiring compliance action of the Maine Utilities Gas Company. The Commission's order was reported May 5 at 42 FR 22964.

NOTE.—The above consists of summaries of Safety Board documents made available, and safety recommendation responses received, during the week preceding publication of this notice in the FEDERAL REGISTER. Safety Board recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 9, 1977.

[FR Doc.77–13622 Filed 5–11–77;8:45 am]

[Docket No. SA–458]

AIRCRAFT ACCIDENT—NEW HOPE, GEORGIA

Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. e.d.t. on June 6, 1977, in Room C of Sheraton Hall in the Sheraton-Biltmore Hotel, 817 West Peachtree Street, NE, Atlanta, Georgia.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving a Southern Airways, Inc., Douglas DC–9, N1335U, which occurred April 4, 1977, at New Hope, Georgia.

LESLIE D. KAMPSCHROR,
Hearing Officer.

MAY 5, 1977.

[FR Doc.77–13623 Filed 5–11–77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Acceptance of Petition for Review of Product Eligibility Under the Generalized System of Preferences

Notice is hereby given of acceptance for review of a petition for the modification of the list of articles receiving duty-free treatment under the Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). This petition indicates the existence of unusual circumstances warranting an immediate review by the Trade Policy Staff Committee (TPSC). The description of the petition is as follows:

1. Case No., 77–14.
2. Tariff Schedules of the United States (TSUS) item No. and description—147.55 microscopic slides and microscopic glasses.
3. Petitioner, Erie Scientific Co., Buffalo, N.Y.
4. Action requested—Withdrawal of GSP benefits.
5. Action taken—Petition accepted.

All interested parties are invited to submit their views on the requested action to the GSP Subcommittee of the TPSC, Room 720, 1800 G Street NW., Washington, D.C. 20506. Written comments should be received no later than the close of business, May 26, 1977.

Subject to the regulations of the TPSC, and except for business confidential information, all written materials filed with the TPSC in connection with this petition will be open to public inspection by appointment at the office of the TPSC, Room 728, 1800 G Street NW., Washington, D.C. 20506, 202–395–3320.

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc.77–13750 Filed 5–11–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 13223]

COLORADO

Declaration of Disaster Loan Area

The Counties of Baca, Bent, Crowley, Elbert and adjacent counties within the State of Colorado, consitute a disaster area because of physical damage caused by winter storm, heavy snow, freezing rain, sustained winds in excess of 50 MPH, and gusts of 100 MPH and more which occurred on March 9, through March 13, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 1, 1977, and for economic injury until the close of business on February 2, 1978, at:

Small Business Administration, District Office, 721—19th Street—Room 407, Denver, Colorado 80202,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 2, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–13508 Filed 5–11–77; 8:45 am]

[Declaration of Disaster Loan Area No. 1324]

VERMONT

Declaration of Disaster Loan Area

The area of Canal and Rockingham Streets in the City of Bellows Falls in Windham County, Vermont, constitutes a disaster area because of damage resulting from a fire which occurred on April 17, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 5, 1977 and for economic injury until the close of business on February 2, 1978 at:

Small Business Administration, District Office, 87 State Street, Montpelier, Vermont 05602.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–13509 Filed 5–11–77;8:45 am]

[License No. 01/01–0283]

CHARLES RIVER RESOURCES, INC.

Issuance of Small Business Investment Company License

On March 4, 1977, a Notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (Vol. 42, No. 43) stating that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 C.F.R. 107.102 (1976)) for a license to operate as a small business investment company by Charles River Resources, Inc., 575 Technology Square, Cambridge, Massachusetts 06110.

Interested parties were given until the close of business on March 21, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA issued License No. 01/01–0283 to Charles River Resources, Inc., to operate as a small business investment company.

Dated: May 5, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77–13507 Filed 5–11–77;8:45 am]

[Application No. 07/07–5078]

COMMUNITY EQUITY CORPORATION OF NEBRASKA

Application for 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 Community Equity Corporation of Nebraska (applicant), with the Small Business Administration (SBA), pursuant to 13 C.F.R. 107.102 (1977).

The officers and directors of the applicant are as follows:

William C. Moore, President, Director, 9606 North 29th Street, Omaha, Nebraska 68112.
Herbert M. Patten Secretary, General Manager, Director, 5510 Camden Avenue, Omaha, Nebraska 68112.
Alvin M. Goodwin, Treasurer, Director, 4905 Manderson Street, Omaha, Nebraska 68104.

The applicant, a Nebraska corporation, with its principal place of business located at 5620 Ames Avenue, Room 104, Omaha, Nebraska 68104, will begin operations with $300,000 of paid-in capital and paid-in surplus, derived from the sale of 30,000 shares of common stock to approximately 20 private investors including Community Equity Corporation, a Nebraska non-profit corporation, which will purchase a minimum of $160,000 in shares of the initial offering. The remaining shares will be purchased by Omaha's major business and industry enterprises.

The applicant will conduct its activities and operations principally in the State of Nebraska, with particular emphasis on the Omaha and Lincoln Metropolitan areas.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

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 management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, on or before May 27, 1977, submit to SBA written comments

on the proposed applicant. Any such communication should be addressed to the Deputy Associate Adminstrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Omaha, Nebraska.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 5, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-13506 Filed 5-11-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 165-19]

DIRECTOR, USAID/COLOMBIA

Delegation of Authority

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Colombia, authority to negotiate, execute and implement a contract of guaranty with the Central Bank of Colombia for a productive credit guaranty project in accordance with and subject to the terms and conditions set forth in the project authorization dated _____.

The delegation of authority to negotiate and execute shall lapse 120 days from the date of execution of the project authorization.

Dated: May 4, 1977.

EDWARD W. COY,
Acting Assistant Administrator.

[FR Doc.77-13592 Filed 5-11-77;8:45 am]

[Public Notice 544]

FISHERY LIMITS

The Fishery Conservation and Management Act of 1976 establishes a fishery conservation zone contiguous to the territorial sea of the United States, the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. The Act also provides for the negotiation of boundaries in areas adjacent to or opposite of any foreign nation.

Public Notice 526 (42 FR 12937, March 7, 1977) noted that the limits of the fishery conservation zone as set forth therein were without prejudice to any negotiations with neighboring countries or to any positions which may have been or may be adopted respecting the limits of maritime jurisdiction.

On April 27, 1977, the Government of the United States and the Government of Cuba concluded a modus vivendi to serve for the rest of 1977 as a maritime boundary, pending further technical work.

The coordinates are as follows:

1.	23°56'24" N. 81°13'27" W.	10.	24°03'18" N. 84°11'20" W.
2.	23°50'00" N. 81°50'00" W.	11.	24°10'22" N. 84°29'19" W.
3.	23°50'00" N. 83°12'10" W.	12.	24°12'56" N. 84°35'44" W.
4.	23°51'11" N. 83°20'13" W.	13.	24°14'17" N. 84°38'37" W.
5.	23°52'49" N. 83°31'09" W.	14.	24°40'23" N. 85°31'20" W.
6.	23°54'12" N. 83°39'45" W.	15.	24°51'56" N. 85°53'45" W.
7.	23°56'09" N. 83°48'16" W.	16.	25°10'29" N. 86°27'25" W.
8.	23°56'11" N. 83°48'23" W.	17.	25°13'03" N. 86°32'08" W.
9.	23°58'20" N. 83°55'52" W.		

The line hereby established should be considered to replace that portion of the line established in the Department's notice 526 of March 7, 1977, from point 116 to point 163 in the section of notice 526 entitled "U.S. Atlantic Coast and Gulf of Mexico".

It has also come to the attention of the Department of State that three errors appear in the Department's notice 526 of March 7, 1977 in the section of that notice entitled "Central and Western Pacific". That section should be amended as follows:

A. The introduction concerning American Samoa should read: *"American Samoa.* The seaward limit of the fishery conservation zone, except to the north and northeast where the limit remains to be determined, shall be determined by straight lines connecting the following coordinates:".

B. The longitude of point 11 of the fishery conservation zone around Guam should be: 145°03'36".

C. The introduction concerning Palmyra Atoll should read: *"Palmyra Atoll—Kingman Reef.* The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the territorial sea is measured except that to the southeast of Palmyra Atoll and Kingman Reef the limit of fishery conservation zone shall be determined by straight lines connecting the following coordinates:".

Publication of a notice on this subject which is effective immediately upon publication is necessary to effectively exercise the foreign affairs responsibility of the Department of State. (See Title 5, U.S.C. Sec. 553 (a)(1) and (b)(B).

Dated: May 9, 1977.

MARK B. FELDMAN,
Deputy Legal Adviser.

[FR Doc.77-13537 Filed 5-11-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 122—PLANNING FOR 50 kHz VOR/ILS CHANNELING

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 122—Planning for 50 kHz VOR/ILS Channeling to be held June 14-15, 1977, RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Seventh Meeting held January 18-19, 1977; (3) Consideration of Suggested Revisions to Standards; and (4) Finalize Revisions to VOR/ILS/DME Minimum Performance Standards.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 3, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-13408 Filed 5-11-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 127—EMERGENCY LOCATOR TRANSMITTERS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 127—Emergency Locator Transmitters to be held June 7-8-9, 1977, Conference Room 6332, Headquarters U.S. Coast Guard, 400 Seventh Street, S.W., Washington, D.C. commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Sixth Meeting held February 18-19-20, 1976; (3) Review of FAA Technical Input on Crash Force Sensors; and (4) Finalize Draft Minimum Performance Standards for Emergency Locator Transmitters.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 3, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-13409 Filed 5-11-77;8:45 am]

Office of Hazardous Materials Operations

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described, as in past publications. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions because they represent the large majority of applications awaiting disposition.

DATES: Comments by May 27, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Application No.	Applicant	Renewal of special permit or exemption
3330-X	General Electric, Schenectady, N.Y.	3330
3941-X	Aerojet Solid Propulsion Co.; Sacramento, Calif.	3941
5454-X	Air Products and Chemicals, Inc., Allentown, Pa.	5454
5704-X	IMC Chemical Group, Inc., Allentown, Pa.	5704
6016-X	Huber Supply Co., Mason City, Iowa.	6016
6253-X	Luther Werke, Hamburg, Germany.	6253
6883-X	Pennwalt Corp., Buffalo, N.Y.	6883
6927-X	Dow Chemical Co., Midland, Mich.	6927
6994-X	Apache Container Corp., St. Paul, Minn.	6994
7060-X	Baltimore Airways Inc., Clarksville, Md.	7060
7098-X	Rohm and Haas Co., Philadelphia, Pa.	7098
7206-X	Rman Transport Corp., Des Moines, Iowa.	7206
7240-X	Hysol Division, The Dexter Corp., Olean, N.Y.	7240
7269-X	U.S. Energy Research and Development Administration, Washington, D.C.	7269
7285-X	Produits Chimiques Ugine Kuhlmann, Paris, France.	7285
7286-X	Liquid Carbonic Corp., Chicago, Ill.	7286
7444-X	Philadelphia Gas Works, Philadelphia, Pa.	7444
7718-X	Atlas Powder Co., Dallas, Tex.	USCG 5-74

Application No.	Applicant	Party to a special permit or exemption
2587-P	Valweld Inc., Appleton, Wis.	2587
4763-P	Worth Chemical Corp., Greensboro, N.C.	4763
5372-P	Vulcan Materials Co., Birmingham, Ala.	5372
6145-P	G. Frederick Smith Chemical Co., Columbus, Ohio.	6145
6538-P	Aladdin Industries Inc., Nashville, Tenn.	6538
6563-P	Liquid Carbonic Corp., Chicago, Ill.	6563
6564-P	Chem Lab Products Inc., Anaheim, Calif.	6564
6600-P	Morrow County Prod. Co., Abilene, Tex.	6600
6622-P	Worth Chemical Corp., Greensboro, N.C.	6622
6687-P	The Cessna Aircraft Co., Wichita, Kans.	6687
6749-P	Chem Lab Products Inc., Anaheim, Calif.	6749
6758-P	Bennett Industries, Pacolma, Calif.	6758
6904-P	Carter-Wallace, Inc., Cranbury, N.J.	6904
7045-P	X-Ray Sales and Service Co., Fort Worth, Tex.	7045
7240-P	Thermoset Plastics, Inc., Indianapolis, Ind.	7240
7260-P	Atlas Powder Co., Dallas, Tex.	7260
7423-P	Rossborough Manufacturing Co., Cleveland, Ohio.	7423
7444-P	South Jersey Gas Co., Folsom, N.J.	7444
7444-P	Mobil Chemical Co., Beaumont, Tex.	7444
7444-P	New Bedford Gas and Edison Light Co., New Bedford, Mass.	7444
7444-P	New Jersey Natural Gas Co., Asbury, N.J.	7444

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 5, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-13336 Filed 5-11-77;8:45 am]

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of Applications for Exemption

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by June 13, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments

should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor Vehiclee, 2—Rail Freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New exemptions

Application No.	Applicant	Regulation(s) affected	Nature of application
7725-N	Economics Laboratory Inc., St. Paul, Minn.	49 CFR 172.201(a)(3).	To allow the shipping description on shipping papers to contain coded information. (Modes 1, 2, 3, 4, and 5.)
7726-N	Hughes Aircraft Co., Los Angeles, Calif.	49 CFR 173.301, 173.302, 175.3.	To authorize shipment of helium and nitrogen gases in non-DOT cylinders. (Modes 1, and 4.)
7727-N	Albert O. Pollard Co., Wilmington, Del.	49 CFR 173.28(m).....	To authorize shipment of class B poison liquids in reused 17E drums. (Mode 1.)
7728-N	U.S. Energy Research and Development Administration, Upton, N.Y.	49 CFR 173.206, 175.3.	To authorize shipment of lithium foil in argon-filled airtight non-DOT aluminum boxes. (Modes 1 and 4.)
7729-N	Carleton Controls Corp., East Aurora, N.Y.	49 CFR 178.58-2(b), 178.58-5, 178.58-10, 173.302, 175.3.	To authorize construction of a modified DOT 4DA specification cylinder for nitrogen shipments. (Modes 1, 2, 4, and 5.)
7730-N	Western Company of North America, Forth Worth, Tex.	49 CFR 178.343-5, 173.263.	To authorize modification of the location requirement for bottom outlet valves in MC-312 cargo tanks transporting hydrochloric acid and mixtures thereof. (Mode 1.)
7731-N	Minnesota Valley Engineering, New Prague, Minn.	49 CFR 172.101, 173.315(a)(1).	To authorize shipment of liquefied helium in a non-DOT portable tank. (Modes 1, 2, and 3.)
7732-N	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.306(a)(3), 173.1200(a)(8).	To authorize shipment of certain ORM-D aerosols in non-DOT inside polyethylene containers. (Modes 1, 2, and 3.)
7733-N	Hach Chemical Co., Ames, Iowa.	49 CFR 172.400, 175.630.	To authorize shipment of small quantities of certain class B poison packages without labels. (Modes 1, 3, 4, and 5.)
7734-N	Rheem Manufacturing Co., Linden, N.J.	49 CFR pt. 173.	To authorize shipments of certain corrosive liquids in a non-DOT open head polyethylene pail without overpack. (Modes 1, 2, and 3.)
7735-N	Rheem Manufacturing Co., Linden, N.J.	49 CFR 173.119(a), (b).	To authorize shipment of certain flammable liquids in DOT specification 34 containers. (Modes 1, 2, and 3.)
7736-N	Siegling America, Inc., Englewood, N.J.	49 CFR 173.119(m), 172.400.	To authorize shipment of a flammable and poisonous liquid in unlabeled non-DOT specification containers. (Mode 1.)
7737-N	Parker Hannifin Corp., Eastlake, Ohio.	49 CFR 178.42, pt. 173, 175.3.	To authorize shipment of these compressed gases authorized for shipment in a DOT-3E cylinder to be shipped in an aluminum cylinder constructed in accordance with the specification of a DOT-3E cylinder. (Modes 1, 2, 3, 4, and 5.)
7738-N	Mobil Chemical Co., Richmond, Va.	49 CFR 173.271.....	To authorize shipment of phosphorous oxychloride and phosphorus trichloride in a non-DOT specification portable tank. (Modes 1 and 3.)
7739-N	New Zealand Electricity Department, Lambton Quay, Wellington.	46 CFR pt. 64, 70.05-30.	To authorize shipment of aliphatic mercaptan mixtures in non-DOT portable tanks. (Mode 3.)
7740-N	Amchem Products, Inc., Ambler, Pa.	49 CFR 173.245.....	To authorize shipment of certain corrosive liquids in metal drums marked ICC-5 or ICC-5G. (Mode 1.)
7741-N	Bell Aerospace, Buffalo, N.Y.	49 CFR 173.302, 175.3, 173.276.	To authorize shipment of liquid anhydrous hydrazine and helium in non-DOT stainless steel tanks. (Modes 1, 3, 4, and 5.)
7742-N	Sigma Chemical Co., St. Louis, Mo.	49 CFR 172.400.....	To authorize shipment of limited quantities of certain class B poisons without the required DOT label. (Modes 1 and 2.)
7743-N	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.315.....	To authorize shipment of dichlorosilane in DOT 51 portable tanks. (Mode 1.)
7744-N	Dow Corning Corp., Midland, Mich.	.....do.....	To authorize shipment of cold anhydrous hydrogen chloride in a specially designed DOT MC-331 urethane foam insulated cargo tank. (Mode 1.)
7745-N	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.148(a)...	To authorize shipment of monoethylamine (anhydrous) in DOT MC-330 and MC-331 tank trucks. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 5, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-13335 Filed 5-11-77;8:45 am]

Office of Pipeline Safety Operations

[Docket No. 77-5]

PHILLIPS PIPELINE CO.

Grant of Waiver

By letter received January 27, 1977, the Phillips Pipeline Company (Phillips) requested a waiver from compliance with Federal liquid pipeline safety standards under 49 CFR 195.234(g) regarding record retention of developed film of 51 welds. Phillips stated in its petition that the film was inadvertently lost while in the possession of a radiographic technician of the independent X-ray company which performed the nondestructive testing of these welds. Phillips further stated that the film had been read by the technician and its welding inspector and had been entered in the Radiographic Inspection Log before being lost. Phillips included affidavits from both the technician and the Welding Inspector attesting to the above facts and that all 51 of the welds represented by the lost film were acceptable. Phillips also included a copy of the Radiographic Inspection Log.

Phillips has further stated in subsequent communications that:

1. The pipe is 8", seamless, 5LX FR x 42, .250 wall thickness.
2. The total length of the pipeline is 267,493.7 feet with 7,487 girth welds, all of which were X-rayed.
3. There were 352 welds rejected, 14 cut out and 338 were repaired.
4. These 352 welds were X-rayed a second time.
5. All welds represented by the 51 lost radiographs were acceptable in accordance with API 1104 (13th edition).
6. All these welds were made by one welder.
7. The pipeline was hydrostatically tested to as least 90 percent SMYS or 2192 psig, and
8. The operating pressure will me 1440 psig.

After review of the information, MTB has determined that:

1. The Radiographic Inspection Log containing the X-ray numbers, type and number of exposures taken, condition of the welds, their location, and dates taken, verifies that the welds were acceptable in accordance with API 1104 (13th edition).
2. It would be unreasonable to require a large segment of the pipeline to be dug up and X-rayed again just to supply documentation for recordkeeping purposes, since the original affidavits and Radiographic Inspection Log will, in this instance, be sufficient documentation and will be maintained in the radiographic file for the required three years.
3. The hydrostatic testing of the pipeline further attested to the safety of the pipeline; and
4. It would not be inconsistent with pipeline safety to grant the waiver as requested.

Therefore, effective immediately, the requested waiver is granted.

(18 USC 831-835; 49 CFR 1.53(g).)

Issued in Washington, D.C. on May 5, 1977.

JAMES T. CURTIS, Jr.,
Director, Materials Transportation Bureau.

[FR Doc.77-13407 Filed 5-11-77;8:45 am]

Office of the Secretary

TERMINATION OF THE "MOUNTAINEER" EXPERIMENTAL RAILROAD PASSENGER ROUTE BETWEEN NORFOLK, VA. AND CINCINNATI, OHIO

Decision of the Secretary of Transportation

INTRODUCTION AND BACKGROUND

The question before me is whether to terminate the "Mountaineer", a rail

passenger route operated by the National Railroad Passenger Corporation (Amtrak) and serving the cities between Norfolk, Virginia, and Cincinnati, Ohio, or to designate that route as a part of the basic system (as defined in section 102(4) of the Rail Passenger Service Act, 45 U.S.C. 102(4) (Supp. 1976) (the "Act")). This action is required by section 403(c) of the Act, 45 U.S.C. 563(c) (Supp. 1976) which provides for the establishment of experimental rail passenger routes to be operated by Amtrak for a period of at least two years, after which "the Secretary [of Transportation], in consultation with the Board of Directors [of Amtrak], shall terminate such route if he finds that it has attracted insufficient patronage to serve the public convenience and necessity, or he may designate such route as a part of the basic system."

The "Mountaineer" route, providing rail passenger service between Norfolk, Virginia, and Cincinnati, Ohio, was designated by former Secretary Brinegar as an experimental route pursuant to section 403(c) of the Act on March 1, 1975, and began operating on March 23, 1975. Amtrak has now operated that route for more than two years, providing rail passenger service to Norfolk, Suffolk, Petersburg, Nottoway County Station, Farmville, Lynchburg, Bedford, Roanoke, Christiansburg and Narrows, in Virginia; to Bluefield, Welch, and Williamson, in West Virginia; to Tri-State Station, Russell and South Portsmouth, in Kentucky; and to Cincinnati, Ohio. The Act now requires me to make a determination as to the sufficiency of the present patronage of the route, and, if I find that patronage is insufficient, to terminate the route.

Decision

In reaching my decision in this matter, I have carefully weighed data gathered and prepared by the Department's Federal Railroad Administration (FRA) from Amtrak's official records, data prepared and submitted by Amtrak, and the views and comments submitted by State and local government officials and by members of the public. I consulted with the Board of Directors of Amtrak at its regular board meeting on March 31, 1977, and received its recommendations. Having considered all of the above, and for the reasons given below, I have decided that the patronage of the "Mountaineer" is insufficient to serve the public convenience and necessity, and, therefore, the route must be terminated.

Patronage

The number of patrons using a transportation system, the availability and adequacy of alternative modes of transportation, and the cost of providing the transportation system are factors in determining the public convenience and necessity.[1]

An analysis conducted by the FRA shows that the number of patrons on any given segment of the "Mountaineer" route at any one time averages 35 passengers.[2] This number alone is not necessarily determinative of the public's use of a transportation service. It becomes significant, however, when viewed in the context of seasonal variations, variations along the route, and in comparison to usage of other rail passenger routes within the Amtrak system.

Examining those factors, the FRA found that the average passenger load varied by an average of no more than 20 passengers along different portions of the route at any one time, indicating that distribution of patronage is fairly even along the route. There is a strong seasonal variation. The trains carry twice as many passengers in the summer months as in the winter months. Comparison studies with other Amtrak routes show that even the summer passenger load is among the lowest in the Amtrak system. In summary, the route is very poorly patronized; even peak patronage in the summer is no better than poor.

The cost of providing "Mountaineer" service is high, and returns are low. Cost analyses have been performed by Amtrak on almost all of its passenger routes. These analyses show that the "Mountaineer" is among the poorest economic performers in the Amtrak system. For the period from July 1, 1975 to June 30, 1976, it ranked last among long-haul routes in financial contribution per revenue passenger mile, and ranked 15th out of 17 long-haul routes in the generation of connecting revenues. This last measure, in addition to indicating financial weakness, suggests that the route does not contribute significantly to the growth and development of the rail passenger transportation system as a whole. Amtrak's cost projections show no significant improvement for the future.[3] Patronage would have to triple to improve the economics of the route substantially. No such growth is foreseen.[4]

In its meeting of March 31, 1977, the Board of Directors of Amtrak indicated its preference for termination of the "Mountaineer" in favor of a new route to Cincinnati, Ohio, through Virginia and West Virginia which would originate in Washington, D.C. The Board's position was based on an application of Amtrak's own criteria and procedures for the making of route and service decisions, which have been approved by Congress under section 404 of the Act. Under the criteria, the "Mountaineer" would be a prime candidate for discontinuance even if it were not an experimental route.

Alternative Tranportation

Alternative mass transportation exists in the region. Bus lines provide service to all cities along the "Mountaineer" route. Thirty-one percent of the present "Mountaineer" riders would have direct bus service between origin and destination. Another 50 percent would have scheduled connecting service. The remaining 20 percent would receive some service, although that service is admittedly very poor.

While I am sympathetic to the plight of those individuals who will be left without immediately available alternative transportation, the statute leaves me no alterative course of action.

Furthermore, the new route proposed by Amtrak would alleviate much, if not all, of the inconvenience which might be suffered by certain individuals from termination of the "Mountaineer." Persons in those cities without convenient bus service to Norfolk and Suffolk (the only cities on the "Mountaineer" route which will not receive service from the proposed new route) will be able to take the train to larger population centers where such service is available.

Environmental Effects

The FRA, in its "Negative Declaration for Possible Decision by the Secretary of Transportation to Order the Discontinuance of Amtrak's Norfolk to Cincinnati Route" dated April 28, 1977, has investigated the potential environmental impact of a termination of the "Mountaineer," and declared that it would have no foreseeable significant impact upon the quality of the human environment.

The declaration concludes that the impact on the environment caused by the use of alternative transportation (including automobile traffic) would be negligible; that no significant effects on economic development and growth in the region are expected as a result; that there would be no change in the physical environment; and that the termination would not cause an increase in the use of fuel by other modes of transportation. Rather, a net fuel savings is foreseen.

Economic Effects

The Commonwealth of Virginia has urged the continuation of the "Mountaineer" on grounds that the route is an integral part of the southern Virginia region's future economic development. To support its position, the Commonwealth has submitted economic data and projections for the region. That information does not, however, establish

[1] See, e.g., *Colorado v. United States*, 271 U.S. 153, 169 (1925); Southern Pacific Co.—Partial Discontinuance of Passenger Trains, 312 I.C.C. 631 (1961); and Great Northern Ry. Co.—Discontinuance of Passenger Service, 312 I.C.C. 580 (1961).

[2] The measure used by FRA to determine patronage was passenger-miles per train mile (PM/TM). PM/TM is a good measure of patronage because it presents the usage of a train in terms of a common denominator. Unlike revenue passenger miles (which tend to be higher on long hauls than short hauls), ridership (which is higher where people take short trips rather than long trips), and load factors (revenue passenger miles as a percentage of available seat miles—which only tells how well the train is sized to the demand for seats), PM/TM indicate usage irrespective of the distance the train or the people on it were travelling. It may be viewed as telling you how many people you are likely to see on the average if you were to climb on board the train a number of times at a number of different locations along its route. If a route only carries 30 PM/TM, it does not matter whether the route is short haul or long-haul, or whether the riders completely change at each stop or are riding from one end of the route to the other. What it does indicate is that not many passengers will be found on the train at any given time.

[3] Supporting data are attached as Exhibit I.

[4] Amtrak's current capital plan projects a maximum 5 percent increase for FY 1977. Projections for the proposed new route indicate a 60 percent increase in ridership.

a direct connection between the economic growth of the region and the necessity of continuing rail passenger service. Nevertheless, the Commonwealth of Virginia is not precluded by this decision from seeking to procure rail passenger service for its citizens under section 403(b) of the Act, which allows a State, regional or local agency to request such service on the condition that it pay a portion of the cost of providing the service.

The mayor of Norfolk argues that the City of Norfolk has actively promoted the "Mountaineer" and developed a tourist program of which the "Mountaineer" is an integral part. He argues further that tourism is an important factor in Norfolk's economy, and that removal of the "Mountaineer" could seriously affect that industry. While this represents a very real concern to the City of Norfolk and addresses the issue of public convenience and necessity, this argument does not overcome the statutory requirement that the route be terminated if patronage is insufficient.

VALIDITY OF THE EXPERIMENT

A number of the comments received indicate dissatisfaction with the conditions under which the "Mountaineer" was operated, and imply that the experiment was less than fair because of this. Amtrak maintains data related to passenger complaints, on-time performance, and equipment failures for all trains in the system. These records show that the "Mountaineer" service was comparable to other long haul trains within the system.

The purpose of the experimental route program is to determine whether the designated routes serve a public need which would justify their continuation as a part of the basic system. This determination can only be made if these trains are operated in a manner comparable to other trains already within the system, with a level of service which could be maintained by Amtrak on a long-term basis. Amtrak's records show that it has done this. There appears to be no reason to believe that Amtrak or any other person has attempted to discourage the use of the "Mountaineer" by means of poor service.

CONCLUSION

In summary, it appears that the "Mountaineer" is not a viable element of the national railroad passenger system at its present stage of development. Therefore, in consideration of the poor financial performance of the route, the low number of persons served, Amtrak's recommendations and the availability of alternative modes of transportation, I find that the "Mountaineer" has attracted insufficient patronage to serve the public convenience and necessity. Under section 403(c) of the Act, such a finding requires me to terminate the route.

In consideration of the arguments and findings above, and pursuant to the authority granted me by section 403(c) of the Act, I direct that Amtrak cease operation of the "Mountaineer" service within thirty days of this determination, and that the service be terminated pursuant to section 403(c) of the Act.

Dated: May 3, 1977.

BROCK ADAMS,
Secretary of Transportation.

EXHIBIT I

ECONOMIC INDICATORS OF THE MOUNTAINEER
FISCAL YEAR 1976

Average Revenue per Passenger	$14.34
Average Subsidy per Passenger	$54.87
Percentage of Cost covered by Revenue	20.7
Revenue	$1,001,504
Cost	$4,834,915
Deficit	$3,833,411
Projected Amount of Deficit Eliminated if Route Eliminated	$2,491,000
Subsidy per revenue passenger mile	16.4¢
Avoidable subsidy per passenger mile	14.9¢
Average revenue per passenger mile	4.6¢

Estimated annual avoidable loss of the Mountaineer based on fiscal year 1976 operating experience

[In thousands of dollars]

Revenue:	
Norfolk-Cincinnati local riders	$899
Riders through Cincinnati:	
Norfolk-Cincinnati trip segment	303
Cincinnati-Chicago trip segment	168
Total revenue	1,170
Avoidable costs:	
Operation of Mountaineer trains between Norfolk and Cincinnati (684 mi)	3,637
Additional cost savings of elimination of Mountaineer consist from Riley between Cincinnati and Chicago (285 mi)	811
Cost of adding diner to Riley trains between Hinton and Chicago (594 mi)	(650)
Total avoidable cost	3,798
Avoidable operating deficit	(2,628)
Estimated revenues from passengers connecting with other Amtrak trains	137
Net avoidable deficit	2,491

Notes

1. Total revenues are fiscal year 1976 actuals.
2. The avoidable costs for fiscal year 1976 operating experience are identified per the year to date through August 1976 Route Profitability System report for the Mountaineer adjusted for inflation.
3. Estimated revenues from passengers connecting with other Amtrak trains are based on a sample of ridership on the Mountaineer.

Forecast avoidable deficit of the Mountaineer fiscal year 1977–81

[In thousands of dollars

	Fiscal year				
	1977	1978	1979	1980	1981
Revenue	$1,090	$1,205	$1,354	$1,476	$1,685
Avoidable costs	4,002	4,281	4,580	4,886	5,231
Avoidable operating deficit	(2,912)	(3,076)	(3,226)	(3,410)	(3,546)
Revenues from connecting passengers	128	141	158	173	197
Net avoidable deficit	2,784	2,935	3,068	3,237	3,349

Notes

1. Revenue is from market forecasts.
2. Costs are projections of fiscal year 1976 experience.
3. Connecting revenue is based on fiscal year 1976 sample applied to forecasted revenues.
4. If the Mountaineer were discontinued prior to Mar. 24, 1977, there would be no labor protection liability per app. C-2 to the NRPC agreement. If discontinuance should occur after Mar. 23, 1977, labor protection would cost an estimated $524,000 in the 1st full year and $576,000 in the 2d full year after discontinuance.

THE MOUNTAINEER ROUTE CRITERIA AND PROCEDURES, NORFOLK-CINCINNATI

ECONOMIC CRITERIA

Current Economics (FY 1976)

Financial Contribution per RPM: ($.149) [1]
Ranked 17th out of 17 routes.
Ranked below preliminary standard.

Financial Contribution: ($2,796,000)
Ranked 5th out of 17 routes.
Ranked above preliminary standard.

Connecting Revenue: $305,000 [2]
Ranked 15th out of 17 routes.
Ranked below preliminary standard.

Future Economics (FY 1981)

Financial Contribution per RPM: ($.176) [1]
Ranked 17th out of 19 routes.
Ranked below preliminary economics.

Financial Contribution: ($3,789,000)
Ranked 8th out of 19 routes.
Ranked above preliminary standard.

Incremental Capital Investment: $11,879,300
Ranked 10th out of 18 routes.
Ranked below preliminary standard.

Return on Incremental Capital Investment: 6%
Ranked 3rd out of 14 routes.
Ranked below preliminary standard.

NOTE.—The social and environmental data will require detailed analysis.

[FR Doc.77-13466 Filed 5-11-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 164]

ASSISTANT COMMISSIONER (ADMINISTRATION)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authorization for the Commissioner of Internal Revenue to prescribe identification media for use in the Internal Revenue Service is being redelegated to the Assistant Commissioner (Administration). The text of the delegation order appears below.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. E. William Digges, A:FM:PR, 1111 Constitution Ave., NW., Room 629–WB, Washington, D.C. 20224, 202–376–0508 (not toll free).

LEO C. INGLESBY,
Director,
Facilities Management Division.

AUTHORITY TO PRESCRIBE IDENTIFICATION MEDIA

1. The authority vested in the Commissioner of Internal Revenue by Treasury Department Order 150–37 to prescribe identification media for use within the Internal Revenue Service is hereby delegated to the Assistant Commissioner (Administration).

2. This authority may not be redelegated.

WILLIAM S. WILLIAMS,
Acting Commissioner.

APRIL 4, 1977.

[FR Doc.77-13477 Filed 5-11-77;8:45 am]

[1] Riders traveling west of Cincinnati are considered connecting riders and are not included in the calculation in order to not double count connecting revenue in the criterion.

[2] Connecting revenue considers ridership connecting with the Mountaineer to/from the James Whitcomb Riley. Ridership connecting to and from other Amtrak trains is also included in this total and based upon surveys performed for a sample period.

INTERSTATE COMMERCE COMMISSION

[Volume No. 16]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

MAY 6, 1977.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFCATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a

broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 99143 (Sub-No. 5) (Republication), filed January 28, 1976, published in the FEDERAL REGISTER issue of March 11, 1976, and republished this issue. Applicant: OHIO VALLEY CHARTER SERVICES, INC., R.D. No. 2, East Liverpool, Ohio 43920. Applicant's representative: James R. Allison, 25 East Rebecca Street, East Palestine, Ohio 44413. A Report of the Commission, Review Board Number 3, dated March 27, 1977, and served April 25, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, (1) of *passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Columbiana County, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii and Ohio), and (2) of *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Columbiana County, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii, Ohio, Pennsylvania, Maryland, West Virginia, Virginia, Michigan, New York, Florida, and the District of Columbia); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission rules and regulations thereunder. The purpose of this republication is to indicate the addition of the words "and ending" following the word "beginning" in (1) above, and also to indicate the addition of an additional commodity and territorial description in (2) above in applicant's grant of authority.

No. MC 123407 (Sub-No. 328) (Republication), filed October 6, 1976, published in the FEDERAL REGISTER issue of October 29, 1976 and republished this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyear (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Panelling*, between the facilities of the Pan American Gyro-Tex Company located at or near Jacksonville, Fla., on the one hand, and, on the other, points in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—The purpose of this republication is to indicate Oklahoma as a destination state in lieu of Ohio. Common control may be involved.

Hearing: June 1, 1977 at Jacksonville, Fla. (3 days), at 9:30 a.m. Local Time. A tentative time allowance is shown for this hearing. Location of hearing room will be by subsequent notice.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following 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 protest 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 to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission 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, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2421 (Sub-No. 13), filed March 25, 1977. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678, Lenoir, N.C. 28645. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer*, from Louisville, Winchester and Paducah, Ky., to those points in that part of North Carolina on and west of U.S. Highway 29.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Washington, D.C.

No. MC 9812 (Sub-No. 5), filed March 30, 1977. Applicant: C. F. KOLB TRUCKING, COMPANY, INC., R.R. No. 1, Box 294, Mount Vernon, Ind. 47620. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages*, bottled and canned, *and empty containers*, between points in Illinois, Indiana and Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind. or Louisville, Ky.

No. MC-10436 (Sub-No. 1), filed April 18, 1977. Applicant: North Manchester Trucking Company, Inc., P.O. Box 268, 611 West Fourth Street, North Manchester, Indiana 46962. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring

special equipment), Serving Bippus, Urbana and Roann, Indiana as off-route points in connection with applicant's regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 16903 (Sub-No. 48), filed March 21, 1977. Applicant: MOON FREIGHT LINES, INC., 120 W. Grime Street, P.O. Box 1275, Bloomington, Ind. 47401. Aplicant's reresentative: Donald W. Smith, One Indiana Square, Suite 2465, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Natural and cast stone* from points in Vanderburgh County, Ind., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant reequests it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 16965 (Sub-No. 8), filed April 5, 1977. Applicant: FRANKLIN TRUCKING, INC., 210 E. Washington St., Hartford City, Ind. 47348. Applicant's representative: Robert E. Franklin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Seymour, Ind., to points in Illinois, Ohio and Wisconsin, under a continuing contract, or contracts, with Amoco Plastic Products Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 19945 (Sub-No. 64), filed March 25, 1977. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, in bulk, from Springfield, Ill., to points in Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Louis, Mo. or Washington, D.C.

No. MC-25798 (Sub-No. 292), filed April 15, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell, Post Office Box 1186, Auburndale, Florida 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foods* from Solon, Ohio; Traverse City, Saugatuck and Frankfort, Michigan to points in Alabama, Florida, Georgia and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Michigan, or Tampa, Florida.

No. MC 27817 (Sub-No. 128), filed March 18, 1977. Applicant: H. C. GABLER, INC., R.D. No. 3, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graft, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grass stop*, in rolls, *metal stove shovels, metal roofing and siding* and *fabricated metal building products*, from the plantsite of The Billy Penn Corporation—Division of Penn Supply and Metal Corporation, Inc., located at Philadelphia, Pa., to points in Connecticut, Massachusetts, New Jersey, New York and Rhode Island, restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Harrisonburg, Pa., or Washington, D.C.

No. MC 27817 (Sub-No. 130), filed April 18, 1977. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk and frozen foods), from the plantsite and storage facilities of American Home Foods, Division of American Home Products Corporation at or near Milton, Pa., to points in Maryland, Virginia, West Virginia, North Carolina, Ohio, New York, New Jersey, and the District of Columbia, restricted to traffic originating at and destined to the above named origins and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa. or Washington, D.C.

No. MC 42487 (Sub-No. 862), filed March 18, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the Nuclear Generating plantsite and facilities of the Tennessee Valley Authority, located at or near Hartsville, Tenn., as an off-route point in connection with carrier's presently authorized regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chattanooga, Tenn., or Washington, D.C.

No. MC 55898 (Sub-No. 53), filed March 28, 1977. Applicant: DECATO BROS., INC., Heater Road, Lebanon, N.H. 03766. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, forest products and composition board*, between ports of entry on the International Boundary line between the United States and Canada located at points in Maine, Michigan, Minnesota, New Hampshire, New York, and Vermont, on the one hand, and, on the other, points in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Concord, or Montpelier, N.H., Boston, Mass., or Albany, N.Y.

No. MC-59957 (Sub-No. 50), filed March 24, 1977. Applicant: Motor Freight Express, a Corporation, Arsenal Road and Toronito Streets, York, Pennsylvania 17402. Applicant's representative: S. Berne Smith, Esquire, 100 Pine Street (P.O. Box 1166), Harrisburg, Pa. 17108. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment); serving points in Fayette, Greene and Washington Counties, Pa., which are more than 25 miles from the city of Pittsburgh, Pa., as off-route points in connection with carrier's authorized regular-route operations to and from Pittsburgh, Pa.

NOTE.—Applicant's regular routes serve points in the states of Illinois, Indiana, Ohio, Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, and Virginia, and The District of Columbia. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa.

No. MC-61396 (Sub-No. 328), filed March 28, 1977. Applicant: Herman Bros. Inc., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand* from the facilities of Quartzite Stone Co., Inc., located at or near Lincoln, Kansas, to Superior, Nebraska.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., or Omaha, Nebr.

No. MC 63871 (Sub-No. 4), filed March 21, 1977. Applicant: ANDREWS & PIERCE, INC., 1431 Bedford Street, North Abinston, Mass. 02351. Applicant's representative: James E. Mahoney, 84 State Street, Boston, Mass. 02169. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, from South Volney, N.Y., to points in Massachusetts and Rhode Island; (2) *materials, supplies, and equipment*, used in the manufacture, sale and distribution of malt beverages, from points in Massachusetts and Rhode Island, to South Volney, N.Y.; and (3) *empty glass*

bottles, not exceeding one gallon in capacity, from Milford, Mass., to South Volney, N.Y.

NOTE.—Common carrier may be involved. If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass. or Providence, R.I.

No. MC 67210 (Sub-No. 11), filed March 16, 1977. Applicant: GLENNON TRANSPORTS, INC., 1000 North Fourteenth St., St. Louis, Mo. 63106. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the off-route points of Shiloh, Ferrin, Iuka, Xenia, Camp Travis, Calhoun, West Salem, Bone Gap, Damiansville, Woodlawn, Thackery, Bungay, Liberty, Barnhill, Enterprise, Rinard, Ellery, Goldengate, Walnut Hill, Scott Air Force Base, Phillipstown, Garrison, Belle Prairie, Bluford, Keenville, Sims, and Kell, Ill., in connection with carrier's regular-route operations set out herein below: (1) Between St. Louis, Mo., and Mt. Carmel, Ill., serving all intermediate points: From St. Louis over U.S. Highway 50 to junction Illinois Highway 130, thence over Illinois Highway 130 to Albion, Ill., thence over Illinois Highway 15 to Mt. Carmel, and return over the same route; (2) between junction U.S. Highway 50 and Illinois Highway 161, and McLeansboro, Ill., serving all intermediate points: From junction U.S. Highway 50 and Illinois Highway 161 over Illinois Highway 161 to junction Illinois Highway 15, thence over Illinois Highway 15 to Mt. Vernon, Ill., thence over U.S. Highway 460 to McLeansboro, and return over the same route; (3) between Carlyle, Ill., and Nashville, Ill., serving all intermediate points: From Carlyle over Illinois Highway 127 to Nashville, and return over the same route; (4) between junction U.S. Highways 50 and 45, and Carmi, Ill., serving all intermediate points: From junction U.S. Highways 50 and 45 over U.S. Highway 45 to junction U.S. Highway 460, thence over U.S. Highway 460 to Carmi, and return over the same route; (5) between Albion, Ill., and Fairfield, Ill., serving all intermediate points: From Albion over Illinois Highway 15 to Fairfield, and return over the same route;

(6) Between junction U.S. Highway 45 and unnumbered highway near Cisne, Ill., and junction Illinois Highway 161 and U.S. Highway 50, serving all intermediate points: From junction U.S. Highway 45 and unnumbered highway, over unnumbered highway to junction Illinois Highway 37, thence over Illinois Highway 161 to junction U.S. Highway 50, and return over the same route; (7) between Mt. Carmel, Ill., and Carmi, Ill., serving all intermediate points: From Mt. Carmel over Illinois Highway 1 to Carmi, and return over the same route; (8) between junction U.S. Highways 45 and 460, and McLeansboro, Ill., serving all intermediate points: From junction U.S. Highways 45 and 460 over U.S. Highway 460 to McLeansboro, and return over the same route; (9) between McLeansboro, Ill., and Mt. Vernon, Ill., serving all intermediate points: From McLeansboro over Illinois Highway 142 to Wayne City, Ill., thence over Illinois Highway 15 to Mt. Vernon, and return over the same route; (10) between Mt. Vernon, Ill., and Salem, Ill., serving the intermediate point of Rome, Ill.: From Mt. Vernon over Illinois Highway 37 to Salem, and return over the same route; (11) between Fairfield, Ill., and Wayne City, Ill., serving no intermediate points: From Fairfield over Illinois Highway 15 to Wayne City, and return over the same route; (12) between junction U.S. Highways 51 and 460, and junction U.S. Highways 51 and 50, serving the intermediate points of Richview, Centralia, and Central City, Ill.: From junction U.S. Highways 51 and 460 over U.S. Highway 51 to junction U.S. Highway 50, and return over the same route; (13) between St. Louis, Mo., and junction Illinois Highway 3 and U.S. Highway 51: From St. Louis over U.S. Highway 50 Bypass to East St. Louis, Ill., thence over Illinois Highway 3 to junciton U.S. Highway 51, and return over the same route; (14) between junction Illinois Highways 3 and 149, and junction Illinois Highways 3 and 146: From junction Illinois Highways 3 and 149 over Illinois Highway 149 to junction Illinois Highway 127, thence over Illinois Highway 127 to junction Illinois Highway 146, thence over Illinois Highway 146 to junction Illinois Highway 3, and return over the same route; (15) between junction U.S. Highways 51 and 460 and Shawneetown, Ill.: From junction U.S. Highways 51 and 460 over U.S. Highway 460 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, thence over Illinois Highway 13 to Shawneetown, and return over same route;

(16) Between McLeansboro, Ill., and junction Illinois Highways 13 and 1: From McLeansboro over Illinois Highway 142 to junction Illinois Highway 13, thence over Illinois Highway 13 to junction Illinois Highway 1, and return over the same route; (17) between Carmi, Ill., and Brockport, Ill.: From Carmi over Illinois Highway 1 to junction U.S. Highway 45, thence over U.S. Highway 45 to brookport, and return over the same route; (18) between Mound City, Ill., and junction Illinois Highway 37 and U.S. Highway 460: From Mound City over Illinois Highway 37 to junction U.S. Highway 460, and return over the same route; (19) between Ware, Ill., and junction Illinois Highways 1 and 13: From Ware over Illinois Highway 146 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, and return over the same route; (20) between junction Illinois Highways 146 and 34 and Benton, Ill.: From junction Illinois Highways 146 and 34 over Illinois Highway 34 to Benton, and return over the same route; (21) between Harrisburg, Ill., and Carbondale, Ill.: From Harrisburg over Illinois Highway 13 and to Carbondale, and return over the same route; (22) between Thompsonville, Ill., and Murphysboro, Ill.: From Thompsonville over Illinois Highway 149 to Murphysboro, and return over the same route; (23) between Wittington, Ill., and Belleville, Ill.: From Wittington over Illinois Highway 183 to Sesser, Ill., thence over unnumbered highway to junction Illinois Highway 154, thence over Illinois Highway 154 to Red Bud, Ill., thence over Illinois Highway 159 to Belleville, and return over the same route; (24) between Waltonville, Ill., and junction Illinois Highways 148 and 37: From Waltonville over Illinois Highway 148 to junction Illinois Highway 37, and return over the same route; (25) between Eden, Ill., and junction Illinois Highway 153 and U.S. Highway 460; From Eden over Illinois Highway 153 to junction U.S. Highway 460, and return over the same route; (26) between Ava, Ill., and junction Illinois Highways 151 and 3; From Ava over Illinois Highway 151 to junction Illinois Highway 3, and return over the same route, serving in connection with the regular-route operations set out in (13) through (26) above, all intermediate points except those on U.S. highway 460 between junction U.S. Highway 460 and 51 and junction U.S. Highway 460 and 45, and those points on Illinois Highway 142 between McLeansboro, Ill., and Dale, Ill.;

(27) Between East St. Louis, Ill., and Cairo, Ill., serving the intermediate points of Tamaroa, Dowell, Elkville, Hallidayboro, and DeSoto, Ill., and points on U.S. Highway 460 (except Nashville, Ill.): From East St. Louis over U.S. Highway 51 to Cairo, and return over the same route, serving in connection with the regular-route operations sought in (27) above, the off-route points of Merrimac, New Hanover, Fountain, Harrisonville, Valmeyer, Foster Pond, Raddle, Jacob, Gorham, Sand Ridge, Grimsby, Neunert, Grand Tower, Fayville, Goose Island, Thebes, Horseshoe Lake Conservation Area, Miller City, Willard, Burksville, Renault, Ames, Prairie du Rocher, Kellogg, Millstadt, Preston, Walsh, Schuline, Blair, New Palestine, Shiloh Hill, Story, Conant, Denmark, Elco, Diswood, Spring Garden, Ewing, Macedonia, Akin, Lonzo, Bardan, Walpole, Brownsville, Gossett, Ridgeway, Mulkeytown, Orient, Rosiclare, Brownfield, Creal Springs, Karnak, Joppa, Hillerman, Belknap, Forman, Tunnell Hill, New Federal Prison, Temple Hill, Simpson, Phillipstown, Herald, New Haven, and Equality, Ill.; (28) between Evansville, Ind., and Harrisburg, Ill., serving all intermediate points in Illinois: From Evansville over Indiana Highway 62 to the Indiana-Illinois State Line, thence over Illinois Highway 141 to junction U.S. Highway 45, thence over U.S. Highway 45 to Harrisburg, and return over the same route; (29) between Harrisburg, Ill., and junction of Illinois Highway 145 and U.S. Highway 45, east of Metropolis, Ill., serving all intermediate

points: From Harrisburg, Ill., over Illinois Highway 145 to junction U.S. Highway 45, and return over the same route; and (30) between Harrisburg, Ill., and junction of Illinois Highway 1 and Illinois Highway 13, serving all intermediate points: From Harrisburg, Ill., over Illinois Highway 13 to junction Illinois Highway 1, and return over the same route, serving the off-route point of Cave in Rock, Ill., in connection with routes set out in (28) through (30) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 79687 (Sub-No. 10), filed March 2, 1977. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelienople, Pa. 16063. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers, caps, stoppers*, and *covers*, from Glenshaw, Pa., to points in Michigan; and (2) *refused, rejected, and damaged shipments*, on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Pittsburgh, Pa.

No. MC 89684 (Sub-No. 97), filed March 25, 1977. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West Street, Salt Lake City, Utah 84110. Applicant's representative: Robert G. Shepherd, Jr., 600 South Cherry Street, Suite 711, Denver, Colo. 80222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural equipment and parts;* and (2) *snow mobile parts and accessories*, between the warehouse and parts facilities of John Deere, Inc., Massey-Ferguson, Inc., Hesston Corporation, and Sperry New Holland, Inc., located in Denver, Colo., on the one hand, and, on the other, points in Utah, points in that part of Idaho south of the Idaho County Line, points in Silver Bow, Beaverhead, and Madison Counties, Mont., Albany, Carbon, Sweetwater, Uinta, Lincoln, Sublette, and Teton Counties, Wyo., points in Elko County, Nev., Ontario, Cairo, Nyssa, Vale, and Adrian, Oreg.; Cameron, The Gap, Page, Flagstaff, Cedar Ridge, and The Navajo Power Plant, located 5 miles southeast of Page, Ariz., restricted to the transportation of packages or articles each weighing not more than 150 pounds; and further restricted against the transportation of packages, or articles weighing more than 500 pounds, in the aggregate, from one consignor at one location to one consignee at one location during a single day.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 93980 (Sub-No. 69), filed March 25, 1977. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119, Henderson, N.C. 27536. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought ot operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, (1) from points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, to points in Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, for the account of Lawrence R. McCoy; and (2) from points in Maine, Massachusetts, New Hampshire, and Vermont, to points in Ohio and points in that part of Tennessee east of Interstate Highway 65, for the account of Lawrence R. McCoy.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh, N.C., or Washington, D.C.

No. MC 93980 (Sub-No. 70), filed March 25, 1977. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119, Raleigh Road, Henderson, N.C. 27536. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials, supplies, and equipment* (except commodities in bulk, in tank vehicles), used in the processing, packing, storage, handling, and marketing of tobacco, and (2) *unmanufactured, tobacco*, when moving in the same vehicle and at the same time with the commodities described in (1) above, between points in Connecticut, Delaware, Florida, Georgia, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh, N.C., or Washington, D.C.

No. MC 94265 (Sub-No. 248), filed March 21, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., Route No. 460, P.O. Box 305, Windsor, Va. 23487. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Suite 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peanuts, roasted peanuts, and peanut products* (except in bulk in tank vehicles), (1) from the plantsite of Seabrook Blanching Corporation, located at or near Edenton, N.C.; (2) from the plantsite of Jimbo Jumbo, Inc., located at or near Edenton, N.C.; and (3) from the plantsite of Carolina Peanuts Company, located at or near Robersonville, N.C., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Ohio, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 94350 (Sub-No. 382), filed March 25, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from points in Tennessee, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 94350 (Sub-No. 383), filed March 23, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from points in Georgia, to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, and points in Arkansas, Louisiana, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Macon, Ga.

No. MC 94350 (Sub-No. 384), filed March 25, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from points in Alabama, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 99685 (Sub-No. 5), filed March 14, 1977. Applicant: G. I. TRUCKING COMPANY, a Corporation, 14727 Alondra Boulevard, La Mirada, Calif. 90638. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, 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, those requiring special equipment, and motor vehicles), between points in California, on the one hand, and, on the other, (1) points within an area bounded by and on a line beginning at Topanga Beach thence north along California Highway 27 to the northernmost junction with the corporated limits of Los Angeles, thence along the northern corporated boundary of Los Angeles to junction with the southern boundary of the Angeles National Forest, thence along the southern boundary of the Angeles National Forest to junction with the San Bernardino National Forest, thence along the southern boundary of the San Bernardino National Forest to junction U.S. Highway 395, thence south along U.S. Highway 395 to junction Interstate Highway 10, thence along Interstate Highway 10 to Redlands, thence along an imaginary line to junction U.S. Highway 395 and California Highway 60, thence along U.S. Highway 395 to junction Cajalco Drive, thence along Cajalco Drive to junction Mockingbird Canyon Road, thence along Mockingbird Canyon Road and Van Buren Blvd., to junction California Highway 91, thence along California Highway 91, to junction California Highway 55, thence along California Highway 55 to the Pacific Coastline to Topanga Beach, Calif.

(2) (a) Chula Vista, Calif., and intermediate points on Interstate Highway 5, and San Diego and El Cajon and intermediate points on Interstate Highway 8 and points intermediate thereto or within 10 miles thereof, (b) Santa Maria and points on and within 10 miles of U.S. Highway 101 between Santa Maria and junction U.S. Highway 101 and California Highway 27 (except Saticoy), (c) Lompoc, points within 10 miles thereof, and points on and within 10 miles of California Highway 1 between Lompoc and Santa Maria, (d) San Fernando, points within 10 miles thereof, Ventura, and points between San Fernando and Ventura on and within 10 miles of California Highway 126 and Interstate Highway 5 (except Saticoy and Castaic), (e) points between Ventura and San Fernando on and within 10 miles of California Highway 118 (except Saticoy), (f) Riverside and points between San Diego and Riverside on and within 10 miles of Interstate Highway 15, (g) Points on and within 15 miles of U.S. Highway 101, between and including Santa Maria and Paso Robles, (h) points on and within 15 miles of California Highway 14 between and including junction Interstate Highway 5 and Mojave; and points on and within 15 miles of Interstate Highway 10 at and west of Indio in Riverside County, California, and on and within 15 miles of California Highway 86 and 111 in Riverside and Imperial Counties, California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with a similar application at Los Angeles, Calif.

No. MC 102567 (Sub-No. 197), filed April 18, 1977. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, Louisiana 71010. Applicant's representative: Joe C. Day, 2040 North Loop West, Suite 208, Houston, Texas 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Liquid Hydrocloric (Muriatic) Acid, in bulk, in rubber-lined tank vehicles, from Deer Park (Harris County), Texas to all points in Arkansas, Louisiana, Mississippi, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, Louisiana, or Houston, Texas.

No. MC 103066 (Sub-No. 56), filed April 14, 1977. Applicant: Stone Trucking Company, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Scrap metal and catalytic agents*, between points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Sotuh Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin, restricted against the transportation of commodidates in bulk, in tank vehicles, and those which because of size or weight require special equipment.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

Docket MC 103066 (Sub-No. 57), filed April 14, 1977. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Metal Racks* from Cleveland, Ohio to points in California, Colorado, Illinois, Louisiana, Missouri, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Cleveland, Ohio.

Docket MC 103066 (Sub-No. 58), filed April 14, 1977. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Plastic foam, rubber foam, and cellulose foam* from Bremen, Fort Wayne, Indianapolis, LaPorte, Marion, Indiana, Corry and Hazelton, Pennsylvania; Moonachie, New Jersey, and Cornelius, North Carolina to points in Illinois, Indiana, Kentucky, Michigan, New Jersey, Ohio, Pennsylvania, and Tennessee, restricted against the transportation of commodities in bulk, in tank vehicles, and those which because of size or weight require special equipment.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

Docket MC-103066 (Sub-No. 59), filed April 14, 1977. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Floor coverings and supplies* used in the installation of floor coverings from the plants of Congoleum Corporation located at or near Trenton, New Jersey and Marcus Hook, Pennsylvania to ports of entry on the United States-Canada boundary line located in Washington, Idaho, Montana, and North Dakota, between Blaine, Washington, and Pembina, North Dakota inclusive.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC-103993 (Sub-No. 884), filed March 28, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, Indiana 46514. Applicant's Representative: James B. Buda (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, and *containers and cargo containers*, from Chatham County, Georgia, to points in the United States, except Alaska and Hawaii; (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary movements, between Chatham County, Georgia, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Atlanta, Georgia or Savannah, Georgia.

No. MC 103993 (Sub-No. 885), filed March 28, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, Indiana 46514. Applicant's Representative: James B. Buda (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, and *containers and cargo containers* from Lee County, Iowa, to points in the United States (except Alaska and Hawaii); (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary movements, between Lee County, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Detroit, Michigan.

No. MC 106674 (Sub-No. 226), filed March 21, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid propane*, in bulk, between points in Alabama, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Indianapolis, Ind.

No. MC 107002 (Sub-No. 499), filed March 24, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Choctaw County, Ala., to points in Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Mobile, Ala.

No. MC 107002 (Sub-No. 504), filed April 18, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Mississippi 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from the site of Alpine Laboratories, located in Baldwyn County, Alabama to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Mobile, Alabama or Jackson, Mississippi.

No. MC 107295 (Sub-No. 845), filed April 15, 1977. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *fireplaces* and *barbecue grills, parts*, and *accessories*, from Shelbyville, Ky., to points in the United States (except Alaska and Hawaii); (2) *materials, equipment*, and *supplies* used or useful in the manufacture or distribution of commodities in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsite or warehouse facilities of Whittier Steel & Manufacturing, Inc., at Shelbyville, Ky.; (3) *fireplaces, barbecue grills, parts*, and *accessories*, including all material, equipment, and supplies used or useful in the manufacture and distribution of fireplaces and barbecue grills, between the plantsite of Whittier Steel & Manufacturing, Inc., located at Santa Fe Springs, Calif., and Shelbyville, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Los Angeles, Calif., or Washington, D.C.

No. MC 107295 (Sub-No. 846), filed April 15, 1977. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *plumbers' goods, bathroom* or *lavatory fixtures* and *accessories* thereto, (1) from Abingdon, Ill., to points in Arizona, Arkansas (except Ft. Smith), California, Colorado, Idaho, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Utah, Washington, Wisconsin, and Wyoming; (2) from Robinson, Ill., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (3) from Knoxville, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 107993 (Sub-No. 52), filed March 25, 1977. Applicant: J. J. WILLIS TRUCKING COMPANY, a corporation, 2608 Electronic Lane, P.O. Box 5328, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft loading and maintenance equipment*, from points in Monterey County, Calif., to points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco or Los Angeles, Calif.

No. MC 108207 (Sub-No. 459), filed March 28, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., Dallas, Tex. 75207. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molding compounds; granulated resin; and liquid plastics*, in refrigerated equipment (except in bulk), from Los Angeles, Calif., to Memphis, Tenn., and points in Arizona, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Dallas, Tex.

No. MC 108676 (Sub-No. 103), filed March 25, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tenn. 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated flat glass*, from ports of entry on the International Boundary line between the United States and Canada located at Detroit, Mich. and Niagara Falls, N.Y., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant did not specify a location.

No. MC 109533 (Sub No. 87), filed March 30, 1977. Applicant: OVERNITE TRANSPORTATION COMPANY, P.O. Box 1216, Richmond, Virginia 23209. Applicant's representative: C. H. Swanson, (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities (except those of unusual value, Class equipment): Serving Alcoa and Maryville, Tennessee as off-route points in connection with carrier's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tennessee, or Washington, D.C.

No. MC 109595 (Sub-No. 17), filed April 8, 1977. Applicant: REX TRANSPORTATION CO., a corporation, Suite 207, Clausen Building, 1520 North Woodward Avenue, Bloomfield Hills, Michigan 48013. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Michigan 48080. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *cement* from Detroit, Michigan, to points on the international boundary line between the United States and Canada, located on the Detroit and St. Clair Rivers in Michigan, for furtherance to points in Ontario.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Detroit or Lansing, Mich. or Cleveland, Ohio.

No. MC 110420 (Sub-No. 766), filed March 28, 1977. Applicant: QUALITY CARRIERS, INC., I-94 and County Truck C., Bristol, Wis. 53104. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buffing compounds, cleaning compounds, and varnish compounds*, from Waxdale, Wis., to points in Illinois, Monroe, Mich., and Chagrin Falls, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Milwaukee, Wis.

No. MC 110525 (Sub-No. 1186), filed March 25, 1977. Applicant: CHEMICAL

LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, in tank vehicles, from points in Henry County, Ky. (on and north of Kentucky State Highway 146 and on and west of U.S. Highway 421), to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Michigan, Ohio, North Carolina, Texas, and Wisconsin; and (2) *contaminated liquid chemicals*, in bulk, in tank vehicles, from the destination states in part (1) above, to points in Henry County, Ky. (on and north of Kentucky State Highway 146 and on and west of U.S. Highway 421).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Washington, D.C.

No. MC 111729 (Sub-No. 695), filed March 15, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, cash letters, commercial documents and business records), between Spokane, Wash., on the one hand, and, on the other, points in Kootenai County, Idaho, restricted (1) against the transportation of packages or articles weighing in excess of 150 pounds from one consignor to one consignee on any one day; (2) against providing service from or to the premises of banks and banking institutions; and (3) against providing service from or to the premises of persons, other than agencies of the United States Government, who or which have entered into contracts with applicant or its affiliates, and are served by them pursuant to the permits issued by the Commission.

NOTE.—Applicant holds contract carrier authority in MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Spokane, Wash.

No. MC 111956 (Sub-No. 38), filed March 21, 1977. Applicant: SUWAK TRUCKING COMPANY, a corporation, 1105 Fayette Street, Washington, Pa. 15301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers, caps, stoppers and covers*, from Glenshaw, Pa., to points in Michigan; and (2) *rejected, refused and damaged shipments*, on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 112617 (Sub-No. 362), filed March 23, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky. or Washington, D.C.

No. MC 112617 (Sub-No. 363), filed April 5, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: C. R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dimethyl Terephthalate*, in bulk, in tank vehicles, from the plantsite of E. I. Dupont de Nemours & Co., located at Old Hickory, Tenn.; Hercules, Inc., located at Wilmington, N.C.; and Tennessee Eastman Co., located at Kingsport, Tenn., to the plant site of General Electric Co., located at Mt. Vernon, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Louisville, Ky. or Washington, D.C.

No. MC 113325 (Sub-No. 146), filed March 28, 1977. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Mo. 63104. Applicant's representative: T. M. Tahan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Washington County, Mo., to points in the United States (except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Memphis, Tenn.

No. MC 113388 (Sub-No. 117), filed April 13, 1977. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, P.O. Box 618, Seaford, Delaware 19973. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue, N.W., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen footstuffs*, from Salisbury, Maryland and Downingtown, Pennsylvania to points in in Ohio and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113678 (Sub-No. 663), filed March 23, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs*, from the plantsites and storage facilities utilized by O'Brien Spotorno Mitchess, located at points in San Francisco, Santa Clara, San Mateo, Alameda, Marin, Napa, San Joaquin, Sonoma, Contra Costa, Stanislaus, Solona, and Santa Cruz Counties, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 113678 (Sub-No. 664), filed March 23, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk and frozen foods), and *advertising matter, display racks, and premiums* when moving at the same time and in the same vehicle with foodstuffs, from the plantsite of American Home Foods, Division of American Home Products Corp. located at or near Vacaville, Calif., to points in Oregon and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Denver, Colo.

No. MC 113908 (Sub-No. 396), filed April 14, 1977. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale St., P.O. Box 3180, G.S.S. Springfield, Missouri 65804. Applicant's representative: JOHN E. JANDERA, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: CHEMICALS, in bulk, from points in Illinois, to points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Illinois.

No. MC 114457 (Sub-No. 297), filed March 18, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Austin and Owatonna, Minn., to points in Arkansas and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either St. Paul, Minn., or Chicago, Ill.

No. MC 114569 (Sub-No. 172), filed March 23, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address

as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles used in meat packinghouses* (except hides, animal feed and animal feed ingredients, and commodities in bulk), from the plantsite and storage facilities of Elm Hill Meat Co., located at or near Lexington, Ky., to points in Delaware, Illinois, Iowa, Massachusetts, Maryland, New Jersey, New York, Pennsylvania and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lexington, Ky. or Washington, D.C.

No. MC 114632 (Sub-No. 92) (Partial Correction), filed December 22, 1976, published in the FEDERAL REGISTER issue of February 17, 1977, and republished in part as corrected this issue. Applicant: APPLE LINES, INC., 212 SW. Second St. P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Andrew Clark, 1000 1st National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (4) *Calcined petroleum coke, graphite ore, coke breeze, and carbon scrap*, from the plant site of American Colloid, located at or near Granite City, Ill., to points in Arkansas, Iowa, Kansas, Louisiana, the Upper Peninsula of Michigan, Missouri, Nebraska, Oklahoma and Texas.

NOTE.—The purpose of this republication in part is to indicate in (4) above the plant site of American Colloid as located at or near Granite City, Ill. in lieu of Graphite City, Ill. as previously published in error. The rest of the publication remains the same.

No. MC 114896 (Sub-No. 49), filed March 25, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and securities*, between Boston, Mass., Hartford, Conn., points in Connecticut, Massachusetts, Vermont, and New Hampshire, under a continuing contract, or contracts, with Federal Reserve Bank of Boston.

NOTE.—Applicant holds common carrier authority in MC 140345, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Boston, Mass.

No. MC 115311 (Sub-No. 218), filed April 15, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Georgia 31061. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Georgia 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Gypsum and gypsum products, and materials, equipment and supplies used in the manufacture, packaging, distribution, or installation thereof from Brunswick, Georgia to points in Georgia, Kentucky, Louisiana, Maryland, Mississippi, West Virginia, and District of Columbia.

NOTE.—If a hearing is deemed necessary the Applicant requests it be held at either Atlanta, Georgia or Jacksonville, Florida.

No. MC 115491 (Sub-No. 133), filed March 21, 1977. Applicant: COMMERCIAL CARRIER CORPORATION, P.O. Drawer 67, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soil conditioners, calcium carbonate, magnesium carbonate and mixtures thereof*, from those points in Florida on and north of Florida Highway 50 and east of Jefferson County, Fla., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Tampa, Fla.

No. MC 115904 (Sub-No. 72), filed March 25, 1977. Applicant: GROVER TRUCKING CO., A Corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes and sheets, corrugated and not corrugated*, from the plantsite of Boise Cascade Corporation, located at or near Nampa, Idaho, to points in Utah and Nevada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Boise, Idaho, or Washington, D.C.

No. MC 116457 (Sub-No. 20), filed March 23, 1977. Applicant: GENERAL TRANSPORTATION, INCORPORATED, 1804 S. 27th Ave., Phoenix, Ariz. 85005. Applicant's representative: Donald Parker Crosby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, unglazed brick, structural glazed brick and tile, fire brick, fluelining, ceramic floor and wall tile fire clay and commodities* incidental to the installation thereof (except commodities in bulk, moving in tank vehicles), (1) from points in Dona Ana County, N. Mex., and points in Arizona, Colorado, Oklahoma, Mississippi, and Utah to points in Arizona, California, Nevada, Colorado, Utah, Washington, Oregon, Montana, Wyoming, Idaho and New Mexico; and (2) from points in Texas, Arkansas, and Kansas, to points in Idaho, Utah, Colorado, New Mexico, Washington, Oregon, and those in California north of San Luis Obispo, Kern, and San Bernidino Counties, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz. or Dallas, Tex.

No. MC 116763 (Sub-No. 375), filed March 24, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the plantsite and warehouse facilities of Redwing, Mfg., located at or near Fredonia, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York City, N.Y.

No. MC 117068 (Sub-No. 78), filed March 21, 1977. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal waste spreader tanks and parts and accessories* of such tanks, from Vinton, Iowa, to those points in that part of the United States, in and west of Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, restricted to shipments moving for the account of A. O. Smith Harvestore Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 117940 (Sub-No. 217), filed March 25, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such commodities* as are dealt in by retail department stores (except foodstuffs, commodities of unusual value, explosives, commodities in bulk, household goods, and those requiring special equipment), from points in California, to points in Colorado, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Utah, restricted to the transportation of shipments destined to the facilities of Gamble Skogmo, Inc. and its divisions and subsidiaries.

NOTE.—Applicant holds contract carrier authority in No. MC. 114789 (Sub-No. 16), and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either St. Paul or Minneapolis, Minn.

No. MC 119741 (Sub-No. 68), filed March 28, 1977. Applicant GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, P.O. Box 1235, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, from the plantsite and storage facilities of Interbake foods, Inc., located at Battle Creek, Mich., to points in Iowa, Kansas, Missouri, Oklahoma,

and Texas, restricted to the transportation of traffic originating at the above named origin, and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Battle Creek, or Lansing, Mich.

No. MC 119792 (Sub-No. 59), filed March 28, 1977. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, a Corporation, 3600 South Western, Chicago, Ill. 60609. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and packinghouse products* (except commodities in bulk), from Elkhart and South Bend, Ind., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123061 (Sub-No. 87), filed March 24, 1977. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, Utah 84116. Applicant's representative: Harry D. Pugsley, 310 South Main St., P.O. Box 780, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth*, from points in Storey and Pershing Counties, Nev., to points in Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Reno, Nev. or Salt Lake City, Utah.

No. MC 124711 (Sub-No. 45), filed March 25, 1977. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Liquid fertilizer solutions* (except petroleum products), in bulk, in tank vehicles, from Indianola, Nebr., to points in Kansas and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Okla.; Tulsa, Okla.; or Kansas City, Mo.

No. MC 124947 (Sub-No. 56), filed April 12, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Oklahoma 74079. Applicant's representative: Michael J. Norton, Suite 404—Boston Building, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting tractors, attachments, parts, accessories and supplies, from the plantsite and facilities of J. I. Case Company at or near Racine, Wisconsin to points in California, Oregon, Washington, Idaho, Nevada, Arizona and Utah.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Washington, D.C.

No. MC 124078 (Sub-No. 724) (amendment), filed April 17, 1977, published in the FEDERAL REGISTER issue of May 5, 1977, and republished as amended this issue. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aplite*, in bulk, from Montpelier, Virginia, to points in New Jersey, New York, North Carolina, Ohio, and Rhode Island.

NOTE.—The purpose of this republication is to indicate applicant's amended request for authority to include Rhode Island as a destination state. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 124511 (Sub-No. 30), filed April 18, 1977. Applicant: JOHN F. OLIVER, P.O. Box 223, Mexico, Mo. 65265. Applicant's Representative: Ernest A. Brooks II, 1301 Ambassador Bldg. St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Fire brick, fire clay, furnace of kiln lining, refractory products and commodities incidental to the installation thereof, and materials and supplies used in their manufacture and production (except commodities in bulk, in tank vehicles), (1) between points in Audrain, Callaway and Montgomery Counties, Mo., on the one hand, and, on the other, points in Delaware, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia and Wisconsin; and, (2) between the plantsite of A. P. Green Refractories Co., at or near Goose Lake (Grundy County), Ill., on the one hand, and, on the other, points in Arkansas, Colorado, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Chicago, Ill.

No. MC 124511 (Sub-No. 30), filed March 28, 1977. Applicant: MORGAN TRUCKING CO., a Corporation, 1201 E. 5th Street, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of H. J. Heinz Company located at Iowa City, Iowa, to Minneapolis, St. Paul, and Hopkins, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa or Pittsburg, Pa.

No. MC 125519 (Sub-No. 4), filed, April 12, 1977. Applicant: RALPH MOYLE, INC., P.O. Box 20, Mattawan, Michigan 49071. Applicant's representative: WILLIAM B. ELMER, 21635 East Nine Mile Road, St. Clair Shores, Michigan 48080. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *foodstuffs*, from the plantsite of A. F. Murch Company located at Paw Paw, Michigan, to points in Indiana, Illinois, Ohio and Wisconsin; *and materials and supplies used in connection with the manufacture and distribution of the foregoing*, from the above named destination states, to the plantsite of A. F. Murch Company located at Paw Paw, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lansing, Mich. or Chicago, Ill.

No. MC 125519 (Sub-No. 5), filed April 12, 1977. Applicant: RALPH MOYLE, INC., P.O. Box 20, Mattawan, Michigan 49071. Applicant's representative: WILLIAM B. ELMER, 21635 East Nine Mile Road, St. Clair Shores, Michigan 48080. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *preserved and pickled vegetables*, from the plantsite of Harrison Packing Company, Inc. in Kalamazoo, Michigan, to points in Indiana, Illinois, Ohio, and Wisconsin; and *materials and supplies used in the manufacture and distribution thereof*, from points in said destination states to the plantsite of Harrison Packing Company, Inc. in Kalamazoo, Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lansing, Mich., or Chicago, Ill.

No. MC 126539 (Sub-No. 29), filed March 28, 1977. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and composite containers and container ends*, (1) from Massillon, Ohio, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin; and (2) from Fort Madison, Iowa, to Massillon, Ohio.

NOTE.—Applicant holds contract carrier authority in No. MC 129135 (Sub-2), therefore dual operation may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio or Chicago, Ill.

No. MC 127924 (Sub-No. 3), filed March 25, 1977. Applicant: BECKER TRUCKING CO., a Corporation, Box 217, Newton Falls, Ohio 44444. Applicant representative: Paul F. Beery, 275 E. State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes transporting: *Agricultural limestone*, in bulk, in dump vehicles, from Maple Grove, Ohio, to points in Mercer, Venango, Lawrence, Westmoreland,

Beaver, Jefferson, Butler, Indiana, Fayette, Armstrong, Cambria, Greene, Somerset, Washington, Erie, Crawford, and Warren Counties, Pa., and points in Chautauqua County, N.Y., under contract with Basic, Incorporated.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 129016 (Sub-No. 8), filed March 23, 1977. Applicant: JOH-LAR TRANSPORTATION, INC., 1608 E. 18th St., P.O. Box 2097, Muncie, Ind. 47302. Applicant's representative: Leonard M. Jackson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper boxes*, finished, nonfinished, *scrap paper, inks, wax, roll stock, paints, and machinery* used in the production of paper products, between Huntington, W. Va., Midland, Mich., Peru, Ottawa, and Joliet, Ill., Pevely, Mo., and Delaware, Ohio, under a continuing contract or contracts with West Virginia Corrugated Container Corp., division of Corco Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis Ind., Columbus or Cincinnati, Ohio, or Louisville, Ky.

No. MC 129034 (Sub-No. 14), filed April 11, 1977. Applicant: LOOMIS COURIER SERVICE, INC., 390 Fourth Street, San Francisco, California 94107. Applicant's Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cash letters* (1) Between points in Oregon; (2) Between points in Skamania and Klickitat Counties, Wash. and Wasco and Hood River Counties, Oreg; and (3) Between points in Skamania and Klickitat Counties, Wash. on the one hand, and, and on the other, Portland, Oreg., under a continuing contract or contracts with banks and banking institutions.

NOTE.—Applicant holds common carrier authority in MC 134386, and subs thereunder, therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oregon.

No. MC 133119 (Sub-No. 119), filed March 25, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Egg cartons and garden containers*, from the ports of entry on the International Boundary line between the United States and Canada, located at or near Noyes, Minn.; Pembina and Portal, N. Dak.; and Raymond, Mont., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating in Saskatchewan, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Minot, N. Dak.

No. MC 133591 (Sub-No. 34), filed March 24, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Harry Ross, 58 South Main St., Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys and games and parts thereof*, and *advertising materials* when moving with toys and games, from Booneville, Ark., to points in Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

NOTE.—Applicant holds contract carrier authority in No. MC 134494 (Subs 1 and 6), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 133689 (Sub-No. 120), filed March 23, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Fairmont, Albert Lea and Winnebago, Minn., to points in Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, and Massachusetts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133741 (Sub-No. 20), filed April 18, 1977. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyoming 82501. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips in bulk*, From the facilities utilized by the Louisiana-Pacific Corporation at or near Dubois, Wyoming to the facilities utilized by the Louisiana-Pacific Corporation at or near Riverton, Wyoming, restricted to shipments having a subsequent movement by rail, under a continuing contract or contracts with the Louisiana-Pacific Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg., or Denver, Colo.

No. MC 134060 (Sub-No. 17), filed March 25, 1977. Applicant: DAVINDER FREIGHTWAYS LTD., Duncan Financial Centre, Duncan, British Columbia, Canada. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper*, from points in that part of Oregon and Washington, on and west of U.S. Highway 97, to the ports of entry on the International Boundary Line between the United States and Canada, located at or near Blaine and Sumas, Wash., restricted to traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 135874 (Sub-No. 75), filed March 24, 1977. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sioux Falls, Rapid City, Watertown, and Madison, S. Dak.; Jamestown, N. Dak., and points in Iowa and Ohio, to the ports of entry on the International Boundary line between the United States and Canada located at Buffalo, N.Y. and Detroit, Mich., on traffic destined to Toronto, Ontario, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 136553 (Sub-No. 47), filed April 12, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, vanities, and accessories for cabinets and vanities*, from Ottawa, Kansas to points in Illinois, Iowa, Missouri, and Omaha, Nebraska.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 136981 (Sub-No. 5), filed April 18, 1977. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Rd., P.O. Box 52, Newbury, Ohio 44065. Applicant's representative: Lewis S. Witherspoon, 88 East Broad St., Suite 930, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting litharge, nepheline syenite, soda ash, glass bulbs, glass rods and tubing, glassware, K. D. metal racks, cullet, electric lamps, batteries and battery chargers, lighting fixtures, holiday decorations, K.D. packaging materials, and steel nestainers for the General Electric Company: Between points in Illinois, Indiana, Ohio, Michigan, Buffalo, New York; points in Pennsylvania west of Interstate Highway 76 (Penna. Turnpike) and north of Interstate Highway 70; and points of entry at the International Border between the United States and Canada, at Buffalo, New York and Detroit, Michigan, under a continuing contract or contracts with General Electric Company.

NOTE.—Applicant holds common carrier authority in No. MC 134798 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 138104 (Sub-No. 39), filed April 12, 1977. A9pplicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Texas 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Texas 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) trailers, semitrailers, and trailer chassis (other than those designed to be drawn by passenger automobiles) parts and equipment therefor, in initial movements, (2) the commodities described in (1) above, in secondary movements, (1) from the plaintsites and storage facilities of Dairy Equipment Company, at or near Madison, Wisconsin, to all points in the United States, including Alaska, but excluding Hawaii, and (2) from all points in the United States, including Alaska, but excluding Hawaii, Oklahoma, and Texas, to the plaintsites and storage facilities of Dairy Equipment Company, at or near Madison, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Fort Worth, Tex. or Madison, Wis.

No. MC 138322 (Sub-No. 3) (Amendment), filed March 3, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished as amended this issue. Applicant: BHY TRUCKING, INC., 9231 Whitmore, El Monte, Calif. 91733. Applicant's representative: John W. Carlisle, 4100 Greenbriar, Suite 215, Houston, Tex. 77098. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rail, track, and railroad materials* used from abandoned tracks, spurs, or lines of railroads, from any facility or job site in the United States, including Alaska, but excluding Hawaii, where such commodities or materials are being removed or stored to any point, plant site or storage yard in the United States, including Alaska, but excluding Hawaii, where such materials are being bought, sold, or used, restricted against transporting such articles which, because of size or weight, require the use of special equipment in the loading, unloading, or transportation thereof when such articles in one piece weigh 15,000 pounds or more.

NOTE.—The purpose of this republication is to indicate applicant's amended request for authority to include Alaska. If a hearing is deemed necessary, the applicant requests that it be held on a consolidated record with other similar applications at Los Angeles, Calif.

No. MC 139163 (Sub-No. 9), filed March 21, 1977. Applicant: ELECTRONIC RIGGERS OF FLORIDA, INC., 1256 La Quinta Drive, Orlando, Fla. 32809. Applicant's representative: M. Craig Massey, 202 E. Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines and parts, materials and supplies* used in the manufacture, installation, or sale of such commodities, between Atlanta, Ga. and its commercial zone, on the one hand, and, on the other, points in Arkansas, under a continuing contract, or contracts, with Xerox Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Orlando, Fla.

No. MC 139254 (Sub-No. 6), filed March 25, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *paper* and *paper products* from the plant sites and storage facilities of Champion International Corporation located at Asheville, Canton, Fletcher, and Waynesville, N.C., to points in New Jersey, New York, and Pennsylvania, restricted (1) against the transportation of commodities in bulk, (2) to the transportation of traffic originating at the said plant sites and storage facilities, and (3) to the performance of transportation under a continuing contract or contracts with Champion International Corporation, of Hamilton, Ohio.

NOTE.—Common control may be involved. Applicant has pending motor common carrier authority in No. MC 142559, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139495 (Sub-No. 221), filed March 24, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant site and warehouse facilities of Kraft, Inc. located at Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, restricted to traffic originating at the above named origin and destined to the above named destination points.

NOTE.—Applicant holds contract carrier authority in MC-133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139912 (Sub-No. 1), filed March 28, 1977. Applicant: ANTHONY PETTOLINA & SONS, INC., Turner and Mascher Streets, Philadelphia, Pa. 19122. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings*, from Philadelphia, Pa., to points in and south of Mercer and Monmouth Counties, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 139999 (Sub-No. 23) (correction), filed March 7, 1977, published in the FEDERAL REGISTER issue of April 21, 1977, as MC 13999 Sub-No. 23, republished as corrected this issue. Applicant: REDFEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Elmer Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in Descriptions in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corporation, located at Cherokee, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—The purpose of this republication is to correct docket number MC 139999 Sub 23, in lieu of MC 13999 Sub-No. 23 which was previously published in error. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 140159 (Sub-No. 1), filed April 14, 1977. Applicant: CHARLES L. FEATHER, R.D. No. 4, Box 653, Altoona, Pa. 16601. Applicant's representative: Thomas M. Mulroy, 800 Lawyers Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier* by a motor vehicle over irregular routes transporting: *Salt*, in bulk, in dump vehicles, from Fairport, Ohio to points in Centre, Cambria, Blair, Huntingdon, Bedford and Fulton Counties, Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pittsburgh, Pa. or Cleveland, Ohio.

No. MC-140267 (Sub-No. 4), filed April 12, 1977. Applicant: R. A. TRANSPORTATION, INC., 115 Jacobus Ave., South Kearny, N.J. 07032. Applicant's representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *flour, in bags*, from Buffalo and Lockport, N.Y. and Martel, Ohio to Baltimore and Jessup, Md., under a continuing contract or contracts with Frank A. Serio and Sons, Inc., located at Baltimore, Md.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Baltimore, Md. or Newark, N.J.

No. MC-140273 (Sub-No. 1), filed March 24, 1977. Applicant: BUESING

BROS. TRUCKING, INC., N. 520 Tamarac Avenue, Long Lake, Minnesota 55356. Applicant's Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, crushed rock and taconite tailings* between points in St. Louis, Carlton, Lake and Pine Counties, Minnesota, on the one hand, and, on the other, points in Douglas County, Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minnesota.

No. MC 140389 (Sub-No. 13), filed March 17, 1977. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77, Gadsden, Ala. 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the plantsites and warehouses of Montfort Packing Company, located at or near Greeley, Colo., to points in Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., or Washington, D.C.

No. MC 140563 (Sub-No. 8), filed March 21, 1977. Applicant: W. T. MYLES TRANSPORTATION CO., a Corporation, P.O. Box 321, Conley, Ga. 30027. Applicant's representative: Archie B. Culberth, 1252 West Peachtree St., N.W., Suite 246, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Newsprint, groundwood papers, printing paper and woodpulp*, from the plantsite of Bowater Southern Paper Corporation, located at Calhoun, Tenn., to points in Alabama, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Virginia, West Virginia, Wisconsin, the District of Columbia, and those points in Florida on and north of Florida Highway 50, and those in Michigan on and south of Michigan Highway 21; and (2) *paper core tubes, and materials and supplies* used in the manufacture of the commodities described in (1) above (except in bulk), from the destination points named in (1) above, to the plantsite of Bowater Southern Paper Corporation, located at Calhoun, Tenn., restricted to traffic originating at or destined to the named plantsite.

NOTE.—Applicant holds contract carrier authority in MC 138869 (Sub-Nos. 2, 4, and 6), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 140665 (Sub-No. 9), filed March 28, 1977. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welding equipment and welding supplies*, from Waverly and Pittsburgh, Pa., Worth, Chicago Heights, and Chicago, Ill., Florence, S.C., Sykesville, Md., Kokomo, Ind., and St. Paul, Minn., to points in Arizona, California, Idaho, Colorado, Nevada, New Mexico, Montana, Oregon, Utah, Washington and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio, Chicago, Ill. or Washington, D.C.

No. MC 140827 (Sub-No. 6), filed March 25, 1977. Applicant: MARKET TRANSPORT, LTD., 33 N.E. Middlefield Road, Portland, Oreg. 97211. Applicant's representative: Philip G. Skofstad, N.E. 13th Street and Linden Avenue, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and commodities*, otherwise exempt from economic regulation under Section 203(b)(6) of the Act, when moving in mixed shipments with bananas, from Los Angeles and Long Beach, Calif., to points in Oregon and Washington.

NOTE.—Applicant holds contract carrier authority in various subs under MC 138946. Therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 140829 (Sub-No. 46), filed March 30, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and bone chews*, in vehicles equipped with and without mechanical refrigeration, from the plantsites and facilities of Sanna Division of Beatrice Foods Co., located at Menomonie, Vesper, Cameron, Wisconsin Rapids and Eau Claire, Wis., to points in Connecticut, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Virginia.

NOTE.—Applicant holds contract carrier authority in MC 136406 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140879 (Sub-No. 3), filed March 23, 1977. Applicant: RALPH OWENS, 311 Park Avenue, Hereford, Tex. 79405. Applicant's representative: Richard Hubbert, 1607 Broadway, Lubbock, Tex. 79401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and articles distributed by meat packing houses*, from Amarillo, Tex., to El Paso, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Amarillo or Lubbock, Tex.

No. MC 142680 (Sub-No. 1), filed March 24, 1977. Applicant: SUMTER TIMBER COMPANY, INC., P.O. Box 104, Cuba, Ala. 36907. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from points in Pickens and Sumter Counties Ala., to points in Florida, Georgia, Mississippi, Tennessee, points in St. Tammany, Tangipahoa, Livingston, Assumption, Ascension, St. John The Baptist, St. James, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines and St. Bernard parishes, La.; and (2) from points in Pickens and Sumter Counties, Ala., to points in Mobile and Baldwin Counties, Ala., restricted to shipments having an immediate subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 142690 (amendment), filed November 30, 1976, published in the FEDERAL REGISTER issue of February 17, 1977 and republished this issue. Applicant: WATIE'S TRANSPORT LTD., a Corporation, 220-37th Street N.E., Calgary, Alberta T2E 2L9 Canada. Applicant's representative: George W. Watie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, between the port of entry on the International Boundary Line between the United States and Canada, located at Sweetgrass, Mont., on the one hand, and, on the other, Sweetgrass, Mont., for the purpose of interlining with other carriers, restricted to traffic moving from or to points in the Province of Alberta, Canada.

NOTE.—The purpose of this republication is to convert applicant's contract carrier authority to common carrier authority. If a hearing is deemed necessary, the applicant requests it be held at Great Falls or Billings, Mont.

No. MC-142696 (Sub-No. 2), filed March 24, 1977. Applicant: GREENE'S CARTAGE CO., INC., 1934 Avalon Avenue, Muscle Shoals, Alabama 35660. Applicant's representative: R. S. Richard, P.O. Box 2069, Montgomery, Alabama 36103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *such merchandise* as is dealt in by home product distributors, restricted to home delivery, from Memphis, Tennessee, to points in Alabama, Mississippi, and to all points in Tennessee east of Benton, Decatur, Hardin, and Henry Counties, Tennessee, under a continuing contract, or contracts, with Stanley Home Products, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Memphis, Tenn., Birmingham, Ala., or Huntsville, Ala.

No. MC-142782 (Sub-No. 1), filed March 21, 1977. Applicant: K. F. MARSHALL LIMITED, a Corporation, 605 Athlone Avenue, Woodstock, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Concrete pipe and related products* which are incidental to the installation of concrete pipe, from ports of entry on the International Boundary line between the United States and Canada on the Niagara River, to points in Allegany, Cattaraugus, Chautauqua, Erie, Genessee, Livingston, Niagara, Orleans and Wyoming Counties, N.Y.; and (2) *returned shipments*, on return, under a continuing contract, or contracts, with Permapipe Limited, located in Township of Brantford, Ontario, Canada, restricted to foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 142900 (Sub-No. 2), filed March 25, 1977. Applicant: ED MARKS TRUCKING INC., 1305 West Idaho St., Kalispell, Mont. 59901. Applicant's representative: Edward L. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trace mineral fertilizer*, from Wellsville (Fremont County), Colo., to points in Montana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Great Falls, Mont., or Pueblo, Colo.

No. MC 142925 (Sub-No. 1), filed March 23, 1977. Applicant: A.C.B. TRUCKING, INC., P.O. Box 1683, 2344 Sagamore N., Lafayette, Ind. 47902. Applicant's representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines and chemicals*, in vehicles equipped with mechanical refrigeration, from Dayton, Ohio and Elkhart, Ind., to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, Washington and Denver, Colo., under a continuing contract, or contracts, with Miles Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Fort Wayne, Ind. or Chicago, Ill.

No. MC 143024 (Sub-No. 2), filed March 21, 1977. Applicant: JACOBSMA TRANSPORT, INC., OF SIOUX CITY, 2600 Highway 75 North, Sioux City, Iowa 51105. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk and tank vehicles, (1) from the facilities of Gulf Central Pipeline, located at or near Spencer, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota; and (2) from the facilities of Gulf Center Pipeline, located at or near Holstein, Iowa, to the destination points named in (1) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 143067, filed March 17, 1977. Applicant: CONDON MOTOR EXPRESS, INC., 2442 46 North Southport Avenue, Chicago, Ill. 60614. Applicant's representative: Frank J. Belline, McDonald's Plaza, S304, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings* and *materials and supplies* used in the installation of floor coverings (except commodities in bulk), between points in Elk Grove Village, Ill., and Munster, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 143095, filed March 29, 1977. Applicant: NEW ENGLAND TRANSPORT, INC. LTD., P.O. Box 441, Springfield, Vermont 05156. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Pre-cut timber homes, prefabricated buildings, and building materials;* (1) between Sullivan County, N.H., and Windsor County, Vt., on the one hand, and, on the other, points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada; (2) and between points in Sullivan County, N.H., and Windsor County, Vt., restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities utilized by Cluster Shed, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at either Concord, N.H., Boston or Springfield, Mass., or Burlington, Vt.

No. MC 143096, filed March 24, 1977. Applicant: NELSON DISTRIBUTING, INC., 1620 Palmer, P.O. Box 90, Miles City, Mont. 59301. Applicant's representative: Charles W. Jardine, P.O. Box 728, 513 Main Street, Miles City, Mont. 59301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and related advertising material*, from Golden, Colo., to Missoula, Great Falls, Kalispell, Butte, Glasgow, Havre, Shelby, Billings, Bozeman, Helena, and Miles City, Mont.; and (2) *recyclable bottles and cans*, from the destination points named in (1) above, to Golden, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Billings, Great Falls, Helena, or Miles City, Mont.

No. MC 143113, filed March 15, 1977. Applicant: 3 W TRUCKING INC., 2707 Cascade Road, Yakima, Wash. 98901. Applicant's representative: Warren L. Dewar, Jr., Suite No. 1, Yakima Legal Center, 303 East D Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulp fiber packing trays*, (1) from the plantsite of Keyes Fiber Company, located at Sacramento, Calif., to points in Umatilla, Wasco, and Hood River Counties, Oreg., and points in Adams, Asotin, Benton, Cheland, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties, Wash.; and (2) from the plantsite of Keyes Fiber Company, located at Wenatchee, Wash., to the plantsite of Keyes Fiber Company, located at Sacramento, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Yakima or Seattle, Wash.

No. MC 143131, filed March 23, 1977. Applicant: GODSEY BROTHERS, INC., 5804 Whitethorne Drive, Evansville, Ind. 47710. Applicant's representative: R. Cameron Rollins, 321 E. Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cinder block, clay, clay products, shale and shale products, tile and tile products, concrete and concrete products, cement and cement products, masonry hand tools, and fireplace accessories*, between Fairdale, Ky., and points in Illinois and Indiana; and (2) *materials and supplies* used in the manufacture of brick, block, tile, cement, and concrete, between Evansville, Ind., and points in Illinois and Kentucky, under a continuing contract, or contracts, with General Shale Products Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Indianapolis, Ind.

PASSENGER APPLICATIONS

No. MC 143140, filed April 7, 1977. Applicant: SEYMOUR BUS LINES, INC., Route 3, Maynardville, Tenn. 37807. Applicant's representative: Billy Joe White, P.O. Box 254, Tazewell, Tenn. 37879. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special operations, in all-expense round trip and sightseeing tours, from points in Union, Jefferson, Blount, Anderson, Campbell, Claiborne, and Knox Counties, Tenn., to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Knoxville, Tenn.

No. MC 143142, filed March 31, 1977. Applicant: GARFIELD AND SARGENT, INC., Airline Road, S. Dennis, Mass. 02660. Applicant's representative: Robert McFarland, 999 W. Big Beaver Road, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Passengers and their baggage*, in special and charter operations, in round trip pleasure and sightseeing tours, beginning and ending at points in Barnstable County, Mass., and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Hyannis or Boston, Mass., or Providence, R.I.

BROKER APPLICATION

No. MC 12945 (Sub-No. 1), filed March 21, 1977. Applicant: THE TOLEDO AUTOMOBILE CLUB, a Corporation, 2271 Ashland Avenue, Toledo, Ohio 43620. Applicant's representative: Gerald P. Wadkowski, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Toledo, Defiance, and Bowling Green, Ohio, to sell or offer to sell the transportation of *passengers and their baggage*, moving in the same vehicle with passengers, in special and charter operations, in all expense tours, by motor, rail, and air carriers, beginning and ending at points in Erie, Sandusky, Geneca, Wyandot, Hancock, Hardin, Auglaize, Allen, Putnam, Van Wert, and Mercer Counties, Ohio, and points in Monroe, Lenawee, Hillsdale, Jackson, Washtenaw, and Wayne Counties, Mich., and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Toledo, Ohio, or Detroit, Mich.

FREIGHT FORWARDER APPLICATION

No. FF 358 (Sub-No. 1), filed March 23, 1977. Applicant: KINGPAK, INC. P.O. Box 18298, Wichita, Kans. 67218. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to engage in operations, in interstate commerce as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water, and express, in the transportation of (1) *used household goods and unaccompanied baggage*, and (2) *used automobiles*, between points in the United States, including Alaska and Hawaii, restricted in (2) above to the transportation of export and import traffic.

NOTE.—Applicant states that the purpose of this application is to add Alaska to its present authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Wichita, Kans.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240 (c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13115. (Correction) (DIXON BROS, INC.—control—C & R TRANSFER CO.), published in the February 17, 1977 issue of the FEDERAL REGISTER on pages 9763 and 9764. Previous notice excluded a portion of the authority be sought. On page 9764, second column following "junction U.S. Highway 218; and", the following portion was inadvertently excluded: "thence north along U.S. Highway 218 to the Iowa-Minnesota State line, and points in that part of Nebraska on, north, and east of a line beginning at the Iowa-Nebraska State line and extending west along U.S. Highway 30 to Junction Nebraska Highway 14, and thence north along Nebraska Highway 14 to the Nebraska-South Dakota State line, except from Crookston, Moorhead, Shakopee, Pine Bend, Winona, and Minneapolis, Minn., and points in the Minneapolis commercial zone, as defined by the Commission, to points in North Dakota, and except the transportation of fertilizer, from Sioux Falls, S. Dak., to points in Iowa, Minnesota, Nebraska, and North Dakota, with restrictions; posts, poles, pilings and Lumber, from points in Lawrence County, S. Dak., and Crook County, Wyo., to points in Iowa, Minnesota, Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming, with restrictions; posts, poles, pilings and lumber, from Whitewood, S. Dak., to points in Wisconsin, Illinois, and to Detroit, Mich., with restrictions. Vendee is authorized to operate as a common carrier in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming. Application has been filed for temporary authority."

MOTOR CARRIER OF PASSENGERS

No. MC-F-13147. (Correction) (THE COLONIAL TRANSIT COMPANY, INCORPORATED d/b/a COLONIAL TRANSIT CO., INC.—purchase (portion)—Greyhound Lines, Inc., d/b/a GREYHOUND LINES), published in the March 31, 1977, issue of the FEDERAL REGISTER on page 17216. Prior notice should have read as follows: "and for acquisition by FPS Consultants, Ltd., 1119 Caroline Street, Fredericksburg, VA 22401, of control of such rights through the purchase. Applicants' attorneys: L.C. Major, Jr., Suite 400 Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312 and Anthony P. Carr, Greyhound Lines, Inc., Greyhound Tower, Phoenix, AZ 85077. Operating rights sought to be transferred: Passenger and their baggage, and express, and newspapers in the same vehicle with passengers, as a common carrier over regular routes between Washington, D.C., and Woodbridge, Va. and more particularly described as follows: From Washington, D.C. over U.S. Highway 1 to Woodbridge, Va., and return over the same route, serving all intermediate points. As a matter directly related to this finance application, applicant has simultaneously filed with the Commission an appropriate certificate application for authority to transport Passengers and their baggage, and express, and newspapers in the same vehicle with passengers, between Woodbridge, Va., and Triangle, Va., via U.S. Highway 1. Vendee is authorized to operate as a common carrier in the District of Columbia, Maryland and Virginia. Application has not been filed for temporary authority under section 210a(b)."

NOTE.—No. MC-61802 (Sub-No. 13) is a directly related matter.

No. MC-F-13190. Authority sought for control by SANDERSVILLE RAILROAD COMPANY, P.O. Box 269, Sandersville, GA., 31082, of B-H Transfer Co., P.O. Box 151, Sandersville, GA., 31082, and for acquisition by Ben J. Tarbutton, Jr., Hugh M. Tarbutton and Rosa M. Tarbutton, all of P.O. Box 269, Sandersville, GA., 31082, of control of B-H Transfer Co., through the acquisition by Sandersville Railroad Company. Applicants' attorney: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA., 30349. Operating rights sought to be controlled: Under MC-135809 (Sub-No. 6), To transport dry sodium tripolyphosphate and tetrasodium pyrophosphate, in bulk, in tank vehicles from Sandersville, Ga., to points in DeKalb, Fulton, Glascock, Jefferson, Twiggs, Washington, and Wilkinson Counties, Ga., and points in Aiken and York Counties, S.C., restricted to shipments having an immediately prior movement by rail. Sandersville Railroad Company holds authority from this Commission in RC-No. 1915. Application has not been filed for temporary authority under section 210a(b).

NOTE.—The issuance of the certificate in MC-135809 (Sub-No. 6) has been withheld until the determination of this application.

No. MC-F-13197 (JACK C. ROBINSON, DBA, ROBINSON FREIGHT LINES—control—Cumberland Express, Inc.), published in the May 5, 1977, issue of the FEDERAL REGISTER. Application filed May 2, 1977, for temporary authority under section 210a(b).

No. MC-F-13200. Authority sought for purchase by OVERLAND EXPRESS, INC., P.O. Box 2667, New Brighton, MN., 55112, of a portion of the operating rights of C.G. Potter, d.b.a. Maumee Express, P.O. Box 1073, Secaucus, N.J., 07094, and for acquisition by William F. Hagerman, P.O. Box 2667, New Brighton, MN., 55112, of control of such rights through the purchase. Applicant's attorney: Charles W. Singer, 2440 East Commercial Blvd., Fort Lauderdale, FL., 33308. Operating rights sought to be transferred: General commodities, with

exceptions as a common carrier over irregular routes from Newark, N.J., to points in that part of the New York, N.Y., Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 203 (b)(8) of the Interstate Commerce Act (the "exempt" zone), with no transportation for compensation on return except as otherwise authorized. From New York, N.Y., to points in Union, Hudson, Essex, Bergen, and Passaic Counties, N.J., with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC-133689 (Sub-No. 123) is a directly related matter.

No. MC-F-13203. Authority sought for control by ALLIED VAN LINES, INC. d.b.a. ALLIED VAN LINES, 25th Avenue and Roosevelt Road, Broadview, IL., 60153, of Eleveld Chicago Furniture Service, Inc., 4020 West 24th Street, Chicago, IL., 60623, of control of such rights through the transaction. Applicant's attorneys: Terry G. Fewell or Ronald C. Nesmith, P.O. Box 4403, Chicago, IL., 60680. Operating rights sought to be controlled: New Furniture (uncrated), as described in Appendix II to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, as a common carrier over irregular routes from Peru, Ind., to points in Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Wisconsin, and Illinois (except Chicago, Ill.), with no transportation for compensation on return except as otherwise authorized; new furniture, from Grand Rapids, Mich., to points in Illinois, Indiana, and Ohio, with transportation for compensation on return except as otherwise authorized; store and office fixtures (as described in appendix III to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, 275) and parts thereof, between the plant site of Capitol Fixture and Construction Corporation at or near Arlington Heights, Ill., on the one hand, and, on the other, Pittsburgh, Pa., St. Louis, Mo., and points in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin; (1) store and office fixtures, as described in Appendix III to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 275, and (2) supplies and materials used in the installation of said store and office fixtures (except commodities in bulk), between the plant site and facilities of Packerland Woodworking Company, a subsidiary of Capitol Fixtures and Construction Corporation, at or near Peshtigo, Wis., on the one hand, and, on the other, Pittsburgh, Pa., and St. Louis, Mo., points in Illinois (except Rockford, St. Charles, Elgin, Naperville, Kankakee, and points in the Chicago, Ill., Commercial Zone as defined by the Commission), Indiana (except Michigan City), Michigan, and Ohio. Vendee is authorized to operate as a common carrier in all the States in the United States including Alaska and Hawaii and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13209. Authority sought for control by REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, Forest Park, GA., 30050, of Commercial Contract Carrier Corp. (non-carrier), and in turn, Coastal Transport and Trading Co., A corporation, P.O. Box 7438, Savannah, GA., 31408, and for acquisition by R. Lamar Beauchamp and Richard A. Beauchamp, both of P.O. Box 308, Forest Park, GA., 30050, of control of Commercial Contract Carrier Corp., and in turn Coastal Transport and Trading Co., through the acquisition by R. Lamar Beauchamp and Richard A. Beauchamp. Applicants' attorneys: Guy H. Postell, 3384 Peachtree Road, N.E., Atlanta, GA., 30327 and Sheldon Silverman, 1819 H Street, N.W., Washington, D.C., 20006. Operating rights sought to be controlled: Under a certificate of registration in Docket No. MC-121654, covering the transportation of Iron or Steel Products as a common carrier, in interstate commerce, within the State of Georgia, between Savannah, Georgia, Port Wentworth, Georgia and Garden City, Georgia, on the one hand, and all points in Georgia, on the other, over no fixed route. Refrigerated Transport Co., Inc., is authorized to operate as a common carrier and contract carrier in all the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-13210. Authority sought for purchase by SYSTEM 99, 8201 Edgewater Drive, Oakland, CA., 94621, of a portion of the operating rights of O.N.C. Freight Systems, 4030 Fabian Way, Palo Alto, CA., 94303, and for acquisition by M. D. Gilardy, L. A. Dore, Jr., and E. R. Preston, all of 8201 Edgewater Drive, Oakland, CA., 94621, of control of such rights through the purchase. Applicants' attorney: Martin Rosen & Michael Stecher, 256 Montgomery Street, San Francisco, CA., 94104 and Joseph P. Ficurelli, P.O. Box 10280, Palo Alto, CA., 94303. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Yuma, Arizona, and Tucson, Arizona serving all intermediate points and those in Arizona within 10 miles of the route described below: from Yuma, Arizona over U.S. Highway 80 to Gila Bend, Arizona, thence over Arizona Highway 84 to junction Arizona Highway 93, thence over Arizona Highway 93 to Tucson (also from Gila Bend over U.S. Highway 80 to Mesa), and return over the same route. Vendee is authorized to operate as a common carrier in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13211. Authority sought for control by TRI-STATE MOTOR TRANSIT CO., d.b.a. TRI-STATE MOTOR TRANSIT, P.O. Box 113 (Business I 40), Joplin, MO., 64801, of Colonial Fast Freight Lines, Inc., P.O. Box 10327, Homewood, AL., of control of such rights through the transaction. Applicants' attorneys: E. Stephen Heisley, 666 Eleventh St., N.W., 805 McLacghlen Bank Bldg., Washington, D.C., 20001, and Max G. Morgan, 223 Ciudad Bldg., Oklahoma City, OK., 73112. Operating rights sought to be controlled: Contractors materials and supplies, cranes, sand hopper, elevators, conveyors, dust collectors, meter boxes, iron and steel pipe, plastic pipe, materials and supplies used in operation, production, processing or transportation of agriculture, water treatment, food processing, wholesale groceries, and institutional supply industries, and numerous other specified commodities, as a common carrier over irregular routes, from to, and between specified points in all the States in the United States, with certain restrictions, as more specifically described in Docket No. MC-115840 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. Vendee is authorized to operate in all the States in the United States. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13212. Authority sought for control by BLUEBIRD INCORPORATED, non-carrier, 2000 Market Street, Suite 1400, Philadelphia, PA., 19103, of (B) Hams Express, Inc., 3499 S. Third St., Philadelphia, PA., 19148 and (BB) Mid-South Trucking Inc., 614 N. Commerce St., Tupelo, MS., 38801, of control of such rights through the transaction. Applicants' attorney: David M. Schwartz, Sullivan & Worcester, 1025 Connecticut Ave., N.W., Suite 500, Washington, D.C., 20036. Operating rights sought to be controlled: (B) Meats, meat products, and meat by-products, articles distrbuted by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A, C, and D, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk), as a contract carrier over irregular routes from the plant site, warehouses, and storage facilities used by Blue Bird Food Products, Co., at or near Philadelphia, Pa., to points

in the United States (except Alaska, Hawaii, California, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah and Wyoming), with no transportation for compensation on return except as otherwise authorized. From points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin, to the plant site and other facilities of Blue Bird at or near Philadelphia, Pa., with no transportation for compensation on return except as otherwise authorized, with restrictions; meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Blue Bird Food Products Co., at or near Philadelphia, Pa., to points in Utah, with no transportation for compensation on return except as otherwise authorized, with restrictions; meats, meat products, and meat by-products, and articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk hides), from the facilities of Blue Bird Food Products Co., at or near Philadelphia, Pa., to points in California, with no transportation for compensation on return except as otherwise authorized. From the warehouse facilities of Blue Bird Food Products Co., at Cleveland, Ohio, to points in Michigan, Illinois, and New York, with no transportation for compensation on return except as otherwise authorized. From the warehouse facilities of the Blue Bird Food Products Co., at Chicago, Ill., to points in Ohio, Michigan, Missouri, Wisconsin, Colorado, Oklahoma, Arkansas, Kentucky, Nebraska, Indiana, and New York, with no transportation for compensation on return except as otherwise authorized. From the warehouse facilities of Blue Bird Food Products, Co., at Milwaukee, Wis., to points in Illinois, and Ohio, with no transportation for compensation on return except as otherwise authorized with restrictions; meat, meat products, and meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as defined in Section A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plant site, warehouses, and storage facilities used by Agar Food Products Co., located at or near Chicago, Ill., to points in the United States (except Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Denver, Colo., to points in California, Arizona, Montana, New Mexico, Oregon, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Kansas City, Mo., to points in Arkansas, Missouri, New Mexico, Nebraska, Oklahoma, South Dakota, Tennessee, and Texas, with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Nashville, Tenn., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, and South Carolina, with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Cleveland, Ohio, to points in Maryland, Michigan, New York, Pennsylvania, Virginia and West Virginia, with no transportation for compensation on return except as otherwise authorized. From points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Mississippi, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, and Wisconsin, to the named facilities of Patrick Cudahy (Illinois) Incorporated located at or near Chicago, Ill., with no transportation for compensation on return except as otherwise authorized. From points in Alabama, Arkansas, Georgia, Kentucky, Oklahoma, Tennessee, and Texas, to cold storage warehouses at Peoria, Ill., and Indianapolis, Ind., with no transportation for compensation on return except as otherwise authorized. From points in Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, and Virginia, to cold storage warehouses located at or near Benton Harbor, Mich., and Indianapolis, Ind., with no transportation for compensation on return except as otherwise authorized. From points in Colorado, North Dakota, Oklahoma, South Dakota, Tennessee, and Texas, to cold storage warehouses located at or near Cedar Rapids and Davenport, Iowa, and Peoria, Ill., with no transportation for compensation on return except as otherwise authorized, with restrictions. (BB) Mid-South Trucking, Inc., holds no authority at this time from the Interstate Commerce Commission. Concurrently with the instant application, it has filed an application for permanent motor contract carrier authority to transport meat, meat products, and meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business, when destined to or for use by meat packers, (except commodities in bulk and hides), as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (a) from the plantsite, warehouses, and storage facilities used by Mid-South Packers, Incorporated at or near Tupelo, Mississippi to points in the United States (except Alaska and Hawaii) and (b) from points in Alabama, Arkansas, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin to the plantsite, warehouses, and storage facilities used by Mid-South Packers, Incorporated at or near Tupelo, Mississippi, under a continuing contract or contracts with Mid-South Packers, Incorporated. This application which is now pending has been assigned Docket No. MC-143201. Bluebird Incorporated, holds no authority from this Commission. However, Ham Express, Inc., is a wholly owned subsidiary of Bluebird Incorporated which also wholly owns Mid-South Packers, Incorporated which, in turn, wholly owns Mid-South Trucking, Inc. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-143201 is a directly related matter.

No. MC-F-13213. Authority sought for purchase by AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, N.J. 08619, of a portion of the operating rights of MODERN TRANSFER CO., INC., an alleged Bankrupt, Alan M. Black, Receiver, 502 Turner Street, Allentown Pa., 18102, and for acquisition by BONSCO, INC., 3630 Quaker Bridge Road, Trenton, N.J. 08619, of control of such rights through the purchase. Applicants' attorneys: Herbert Burstein, 2373 One World Trade Center, New York, N.Y. 10048 and Alexander N. Rubin, Jr., 1800 Penn Mutual Tower, Philadelphia Pa. 19106. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over irregular routes between points in Pennsylvania within 15 miles of Allentown, Pa., including Allentown; those in the Townships of Upper Mount Bethel, Lower Mount Bethel, Washington, Plainfield, Bushkill, and Forks (Northampton County), Pa.; those in the the Townships of East Rockhill, West Rockhill, and Hilltown (Bucks County), Pa; and those in the Townships of Franconia, Hatfield, Montgomery, and Upper Gwynedd (Montgomery County), Pa., and points in New Jersey within ten miles of Phillipsburg, N.J., including Phillipsburg, N.J., on the one hand, and, on the other, points in Maryland, and the District of Columbia; general commodities, with exceptions as common carrier over regular routes between Baltimore Md., and Easton, Pa., from Baltimore over U.S. 40 to junction U.S. Highway 13, thence over U.S. Highway 13 to Wilmington, Del., thence over U.S. Highway 202 to West Chester, Pa., thence over Pennsylvania Highway 100 to Hereford, Pa., thence over Pennsylvania Highway 29 to to Allentown, Pa., and thence over U.S. Highway 22 to Easton, and return over the same route. Service is authorized to and from the intermediate points of Wilmington, Del., and those between Wilmington and Easton; and the off-route

points of Stowe, Pa., and those within five miles of Baltimore. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

NOTE.—Upon approval of the transaction by the Commission, Vendee has consented to the following restriction on the regular route authority involved: Restriction: "Restricted against the transportation of local shipments moving both from and to points on the said route north of Wilmington, Delaware".

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elmination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no reprsentative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 10761 (Sub-No. 282), filed April 4, 1977. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 5650 Foremost Drive SE., Grand Rapids, Michigan 49506. Applicant's representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, New Jersey 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except loose bulk commodities; livestock; explosives, except small arms ammunition; currency; bullion; commodities exceeding ordinary equipment and loading facilities): Between Chicago, Illinois, and Chenoa, Illinois, serving no intermediate points: From Chicago over U.S. Highway 66 to Chenoa, and return over the same route, between Chenoa, Illinois, and El Paso, Illinois, serving El Paso for purposes of joinder only, and serving Chenoa as an intermediate point on the applicant's route between Chicago and Kansas City, Missouri: From Chenoa over U.S. Highway 24 50 El Paso, and return over the same route.

NOTE.—Applicant states that the purpose of this filing is to assure that certain routes retained by applicant upon sale of a portion of its operating rights in Docket No. MC-F-12927, are never-the-less available to Applicant following the transfer in the directly related Section 5 (2) proceeding. Applicant requests consolidation of this application with that in No. MC-F-12927, *Jones Truck Lines—Purchase (Portion) Transamerican Freight Lines, Inc.*

No. MC 99261 (Sub-No. 4) (Correction), filed March 25, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished as corrected this issue. Applicant: ROOT'S EXPRESS, INC., 11 Karlada Drive, Binghamton, N.Y. 13902. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: 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 Binghamton, N.Y., and Syracuse, N.Y., serving all intermediate points, and serving the off-route points of Broome, Chenango, Cortland, Delaware, Monroe, Oneida, Onondaga, Otsego, Sullivan, Tioga, and Tompkins Counties, N.Y.: From Binghamton over U.S. Highway 11 and Interstate Highway 81 to Syracuse, and return over the same route; (B) irregular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Broome County, N.Y., on the one hand, and, on the other, points in Broome, Chenango, Cortland, Delaware, Monroe, Oneida, Onondaga, Otsega, Sullivan, Tioga, and Tompkins Counties, N.Y.; and (2) between points in Broome, Chenango, Cortland, Delaware, Monroe, Oneida, Onondaga, Otsego, Sullivan, Tioga, and Tompkins Counties, N.Y.

NOTE.—This application is being republished to correct the territorial description in (B) above. The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in MC-F-13173 published in the FEDERAL REGISTER issue of April 7, 1977. If a hearing is deemed necessary, the applicant requests it be held at Binghamton, N.Y.

No. MC 135865 (Sub-No. 5), filed February 14, 1977. Applicant: APPLEGATE DRAYAGE COMPANY, a Corporation, P.O. Box 2728, Sacramento, Calif. 95812. Applicant's representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment), (1) between San Francisco and Salinas, Calif.: From San Francisco over U.S. Highway 101 and 101 by-pass to Salinas, Calif., and return over the same route; (2) Between Oakland and Los Gatos, Calif.: From Oakland over California Highway 17 to Los Gatos and return over the same route: (3) Between Oakland and Saratoga, Calif.: From Oakland over California Highway 17, to junction California Highway 9, thence over California Highway 9 to Saratoga and return over the same route: (4) Between San Jose, Calif., and junction California Highway 4 and Interstate Highway 680 near Pacheco, Calif.: From San Jose, Calif., over U.S. Highway 101 to junction of U.S. Highway 101 and Interstate Highway 680, thence over Interstate Highway 680 to junction with California Highway 4, near Pacheco, Calif., and return over the same route: (5) Between Oakland and Sacramento, Calif.: From Oakland over California Highway 24 to junction Interstate Highway 680, thence over Interstate Highway 680 to junction California Highway 4, thence over California Highway 4 to junction California Highway 160, thence over California Highway 160 to Sacramento, and return over the same route:

(6) Between California Highway 4 and junction Interstate Highway 80, near Pinole and Stockton, Calif., over Interstate Highway 4, and return over the same route; (7) Between San Francisco and Sacrameento, Calif.: From San Francisco over Interstate Highway 80 to junction Interstate Highway 580, thence over Interstate Highway 580 to junction Interstate Highway 205, thence over Interstate Highway 205 to junction U.S. Highway 99, thence over U.S. Highway 99 to Sacramento and return over the same route: (8) Between San Francisco and Sacramento, Calif.: From San Francisco over Interstate Highway 80 to Sacramento and return over the same route, serving all intermediate points, and the off-route points of Watsonville, Hollister, Manteca, Winters, Woodland, Travis Air Force Base, Roseville, Sunset-Whitney Industrial Park, Rocklin, Loomis, and Lincoln, Calif., and points in Sacramento and San Joaquin Counties, Calif., in (1) through (8) above.

NOTE.—The purpose of this application is to convert applicant's Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter Directly Related to a Section 5(2) finance proceeding in MC-F-13126 published in the FEDERAL REGISTER of February 24, 1977. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

Docket No. AB-1 (Sub-No. 49)

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN ELKHORN JUNCTION AND IRVINGTON IN DOUGLAS COUNTY, NEBRASKA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 24, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of the line of railroad extending from railroad milepost 1.7 at Elkhorn Junction (30th Street in Omaha, Nebraska) to milepost 7.0 in Irvington, Nebraska, a distance of 5.3 miles in Douglas County, Nebraska. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-7 (Sub-No. 29)

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ABANDONMENT IN THE CITY OF BERLIN, GREEN LAKE COUNTY, WISCONSIN

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 24, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of a line of railroad beginning at Engineer's Station 2214+14 (milepost 181.08) and extending northwesterly to the end of the track at Engineer's Station 2233+73 (milepost 181.45) a total distance of approximately 1,959 feet of main track and 4,115 feet of other track or a total of approximately 6,074 feet of track, all in the City of Berlin, Green Lake County, Wisconsin. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-12 (Sub-No. 31)

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN WESTWOOD SIDING AND BEVERLY HILLS IN LOS ANGELES COUNTY, CALIFORNIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 22, 1977, a finding, which is administratively final, was made by the Commission, Commissioner MacFarland, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of the line of railroad extending from railroad milepost 501.62 near Westwood Siding in a northeasterly direction to the end of the branch at railroad milepost 502.84 near Beverly Hills, a distance of 1.22 miles in Los Angeles County, California. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the is-

suance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-12 (Sub-No. 34)

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN FALL CREEK JUNCTION AND FALL CREEK IN LANE COUNTY, OREGON

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 24, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its line of railroad extending from railroad milepost 610.49 near Fall Creek Junction in a southeasterly direction to the end of the branch at railroad milepost 608.35 near Fall Creek, a distance of 2.14 miles in Lane County, Oregon. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into binding agreement, with the carrier seeking such abandonment, to provide such assistace or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-12 (Sub-No. 46)

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN HAMILTON AND ORDBEND IN GLENN COUNTY, CALIFORNIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 22, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its line of railroad extending from railroad milepost 169.0 beyond Hamilton in a southerly direction to railroad milepost 161.7 near Ordbend, a distance of 7.3 miles in Glenn County, California. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-125 (Sub-No. 1)

NORFOLK SOUTHERN RAILWAY COMPANY ABANDONMENT BETWEEN DIAMOND SPRINGS AND SHELTON, IN VIRGINIA BEACH, VIRGINIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 22, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & O. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Norfolk Southern Railway Company of its line of railroad extending from railroad milepost 7.24SN at the west side of Bayside Road near Diamond Springs in an easterly direction to the end of the line at railroad milepost 8.6SN near Shelton, a distance of approximately 1.4 miles, in Virginia Beach, Virginia. A certificate of abandonment will be issued to the Norfolk Southern Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that: (1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and (2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is nec-

essary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-131

YAKIMA VALLEY TRANSPORTATION COMPANY ABANDONMENT IN SELAH, YAKIMA COUNTY, WASHINGTON

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 20, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subect to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Yakima Valley Transportation Company and the abandonment of operation of a portion of its line of railroad extending from railroad milepost 3.01 in Selah, Washington, in a northerly direction to railroad milepost 3.47 in Selah, Washington, a distance of 0.46 miles, in Yakima County, Washington. A certificate of abandonment will be issued to the Yakima Valley Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that: (1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and (2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 109533 (Deviation No. 14), OVERNITE TRANSPORTATION COMPANY, P.O. Box 1216, Richmond, Va. 23209, filed April 28, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Birmingham, Ala., over Interstate Highway 65 to Louisville, Ky., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Birmingham, Ala., thence over U.S. Highway 11 to Chattanooga, Tenn., thence over U.S. Highway 41 to Nashville, Tenn., thence over U.S. Highway 31-W to Louisville, Ky., and return over the same route.

No. MC 42487 (Deviation No. 111), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, P.O. Box 5138, Chicago, Ill. 60680, filed April 27, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Birmingham, Ala., over Interstate Highway 59 to junction Interstate Highway 24, thence over Interstate Highway 24 to Chattanooga, Tenn., thence over Interstate Highway 75 to Knoxville, Tenn., thence over Interstate Highway 40 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 30 near Chambersburg, Pa., (2) from Birmingham, Ala., over the route described in (1) above to junction Interstate Highway 81 and Tennessee Highway 137, thence over Tennessee Highway 137 to Kingsport, Tenn., thence over U.S. Highway 11W to junction Interstate Highway 81, about 5 miles southwest of Bristol, Tenn., thence over Interstate Highway 81 to junction U.S. Highway 30, near Chambersburg, Pa., and (3) from Birmingham, Ala., over the route described in (2) above to junction Interstate Highway 81 and U.S. Highway 23, thence over U.S. Highway 23 to Kingsport, Tenn., thence over U.S. Highway 11W to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 30 near Chambersburg, Pa., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Birmingham, Ala., over U.S. Highway 31 to Ardmore, Tenn., thence over Tennessee Highway 110 to Fayetteville, Tenn., thence over U.S. Highway 231 to Murfreesboro, Tenn., thence over U.S. Highway 41 to Nashville, Tenn., thence over U.S. Highway 31W to Elizabethtown, Ky., thence over U.S. Highway 62 to Lexington, Ky., thence over U.S. Highway 25 to Cincinnati, Ohio, thence over U.S. Highway 22 to Pittsburgh, Pa., thence over U.S. Highway 30 to junction Interstate Highway 81 near Chambersburg, Pa., and return over the same route.

No. MC 59583 (Deviation No. 56), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662, filed April 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Roanoke, Va., over Interstate Highway 81 to junction U.S. Highway 460 near Christiansburg, Va., thence over U.S. Highway 460 to junction Interstate Highway 77 near East Princeton, W. Va., thence over Interstate Highway 77 to junction Interstate Highway 64 near Charleston, W. Va., thence over Interstate Highway 64 to junction U.S. Highway 52 near Huntington, W. Va., thence over U.S. Highway 52 to Cincinnati, Ohio, (2) from Roanoke, Va., over the route described in (1) above to Charleston, W. Va., thence over Interstate Highway 64 to junction U.S. Highway 35 near Nitro, W. Va., thence over U.S. Highway 35 to Dayton, Ohio, (3) from Roanoke, Va., over Interstate Highway 81 to junction U.S. Highway 460 near Christiansburg, Va., thence over U.S. Highway 460 to junction Interstate Highway 77 near East Princeton, W. Va., thence over Interstate Highway 77 to Akron, Ohio, and (4) from Roanoke, Va., over the route described in (3) above to East Princeton, W. Va., thence over Interstate Highway 77 to junction Interstate Highway 79 near Charleston, W. Va., thence over Interstate Highway 79 to Pittsburgh, Pa., and return over the same routes for operating convenience only.

The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Roanoke, Va., over U.S. Highway 11 to Bristol, Tenn., thence over U.S. Highway 11-W to Tazewell, Tenn., thence over U.S. Highway 25-E to Corbin, Ky., thence over U.S. Highway 25 to junction Kentucky Highway 490 near Pittsburg, Ky., thence over Kentucky Highway 490 to junction U.S. Highway 25 near Livingston, Ky., thence over U.S. Highway 25 to Mt. Vernon, Ky., thence over U.S. Highway 150 to Danville, Ky., thence over U.S. Highway 127 to Alton Station, Ky., thence over Kentucky Highway 151 to Graefenburg, Ky., thence over U.S. Highway 60 to Louisville, Ky., thence over U.S. Highway 42 to Cincinnati, Ohio, thence over Ohio Highway 4 to Springfield, Ohio, thence over U.S. Highway 40 to Columbus, Ohio, thence over Ohio Highway 3 to Wooster, Ohio, thence over Ohio Highway 5 to Akron, Ohio, (2) from Roanoke, Va., over U.S. Highway

11 to Hagerstown, Md., thence over U.S. Highway 40 to Hancock, Md., thence over Interstate Highway 70 to Breezewood, Pa., thence over U.S. Highway 30 to Bedford, Pa., thence over U.S. Highway 220 to junction Pennsylvania Highway 56, thence over Pennsylvania Highway 56 to Homer City, Pa., thence over U.S. Highway 119 to Indiana, Pa., thence over U.S. Highway 422 to Warren, Ohio, thence over Ohio Highway 5 to Akron, Ohio, and (3) from Roanoke, Va., over U.S. Highway 11 to Hagerstown, Md., thence over U.S. Highway 40 to Washington, Pa., thence over U.S. Highway 19 to Pittsburgh, Pa., and return over the same routes.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules —Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 727), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed April 29, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Gary, Ind., over Interstate Highway 65 to junction Indiana Highway 43, thence over Indiana Highway 43 to Lafayette, Ind., with the following access routes: (1) From Merrilville, Ind., over city streets to junction Interstate Highway 65, (2) From Merrilville, Ind., over U.S. Highway 30 to junction Interstate Highway 65, and (3) From Crown Point, Ind., over U.S. Highway 231 to junction Interstate Highway 65, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Gary, Ind., over Indiana Highway 53 to Crown Point, Ind., thence over unnumbered highways to Cedar Lake, Ind., thence over U.S. Highway 41 to junction U.S. Highway 52, thence over U.S. Highway 52 to Lafayette, Ind., and return over the same route.

No. MC-74761 (Deviation No. 6), TAMIAMI TRAIL TOURS, INC., 525 Madison St., P.O. Box 1441, Tampa, Fla. 33062, filed April 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Gainesville, Fla., over Florida Highway 121 to Williston, Fla., and (2) From Archer, Fla., over Florida Highway 24 to Bronson, Fla., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From Gainesville, Fla., over Florida Highway 24 to Archer, Fla., thence over combined U.S. Highways 27 and 41 to Williston, Fla., and (2) From Archer, Fla., over combined U.S. Highways 27 and 41 to Williston, Fla., thence over U.S. Highway Alternate 27 to Bronson, Fla., and return over the same routes.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Arkansas Docket No. M-10229, filed April 20, 1977. Applicant: ARKANSAS EXPRESS, INC., 1612 East 31st Street, North Little Rock, Ark. 72206. Applicant's representative: James M. Duckett, 1021 Pyramid Life Building, Little Rock, Ark. 72201. Certificate of Public Convenience and Necessity sought to operate a freight service over regular routes as follows: Transportation of *General commodities* (except Classes A and B explosives, household goods, commodities in bulk and commodities requiring special equipment), (1) between Little Rock, and Helena, Ark.: From Little Rock over Interstate 40 to the junction of U.S. Highway 49, thence over U.S. Highway 49 to Helena, and return over the same route, serving all intermediate points on U.S. Highway 49 (except Brinkley, Ark.) and serving no intermediate points on Interstate 40, (2) between the junction of Arkansas Highway 1 and U.S. Highway 49 and Mariana, Ark.: From the junction of Arkansas Highway 1 and U.S. Highway 49 over Arkansas Highway 1 to Mariana, Ark. and return over the same route, serving all intermediate points, (3) between Little Rock, Ark. and the Arkansas-Louisiana State Boundary line: From Little Rock over U.S. Highway 65 to the Arkansas-Louisiana State Boundary line, and return over the same route, serving all intermediate points, (4) between Little Rock, and Camden, Ark.: From Little Rock over U.S. Highway 65 to the junction of U.S. Highway 167, thence over U.S. Highway 167 to Fordyce, Arkansas, thence over U.S. Highway 79 to Camden, and return over the same route, serving Fordyce and all intermediate points on U.S. Highway 79, and serving no intermediate points on U.S. Highway 167, (5) between Frodyce, Ark., and the junction of Arkansas Highway 35 and U.S. Highway 65: From Fordyce over Arkansas Highway 8 to Warren, Ark., thence over Arkansas Highway 4 to Monticello, Ark., thence over Arkansas Highway 35 to the junction of U.S. Highway 65, and return over the same route, serving all intermediate points,

(6) Between Pine Bluff, and Warren Ark.:From Pine Bluff over Arkansas Highway 15 to Warren, and return over the same route, serving all intermediate points (7) between Camden, and East Camden, Ark.: From Camden over U.S. Highway 79 to the junction of Arkansas Highway 274, thence over Arkansas Highway 274 to East Camden, and return over the same route, serving all intermediate points; and (8) between the junction of U.S. Highway 65 and Arkansas Highway 4 and the plant facility of Pot Latch Corporation, north of Arkansas City on Arkansas Highway 4: From the junction of U.S. Highway 65 and Arkansas Highway 4 over Arkansas Highway 4 to the plant facility of Pot Latch Corporation, and return over the same route, serving all intermediate points.

NOTE.—Applicant proposes to tack the requested routes at all common points of joinder. Intrastate, interstate and foreign commerce authority sought.

Hearing: Date, time and place is scheduled for June 28, 1977, at 10 a.m., at the Arkansas Transportation Commission, Justice Building, Little Rock, Ark. 72201 and should not be directed to the Interstate Commerce Commission.

New York Docket No. T 8573, filed April 1, 1977. Applicant: KERR MOTOR LINES, INC., 1/4 Jackson Street, Binghampton, N.Y. 13903. Applicant's representative: Edward Kerr (same address as applicant. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, between Binghampton and Albany, N.Y., over Interstate Highway 88 for operating convenience and safety. Intrastate, interstate and foreign commerce authority sought.

Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Building No. 5, Room 311, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13462 Filed 5-11-77;8:45 am]

[AB 59 (SDM)]

CHATTAHOOCHEE VALLEY RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Chattahoochee Valley Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB–59 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–59 (SDM).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13476 Filed 5-11-77;8:45 am]

[AB 150 (SDM)]

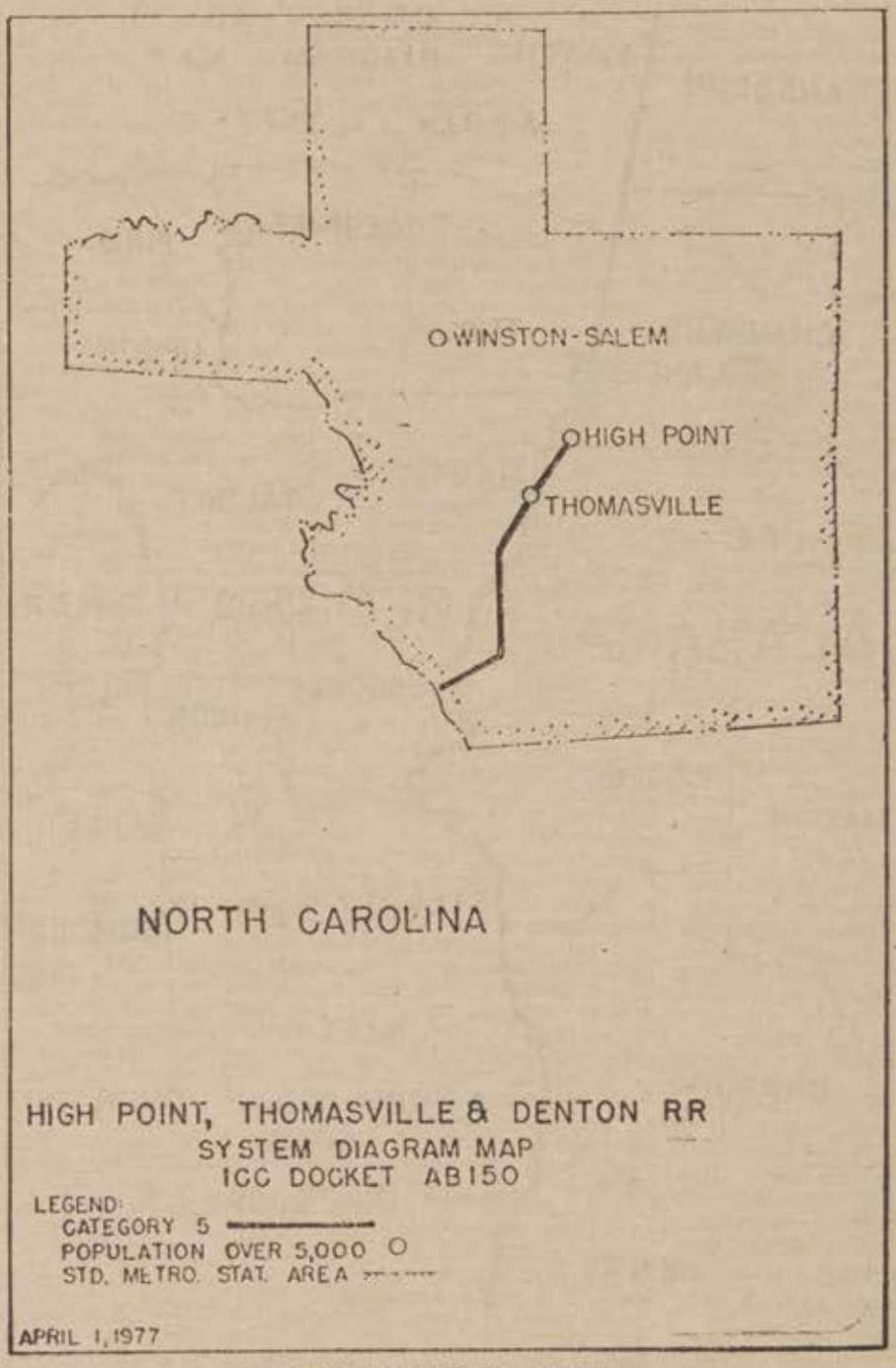
HIGH POINT, THOMASVILLE & DENTON RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the High Point, Thomasville & Denton Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 150 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–150 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13475 Filed 5-11-77;8:45 am]

[AB 13 (SDM)]

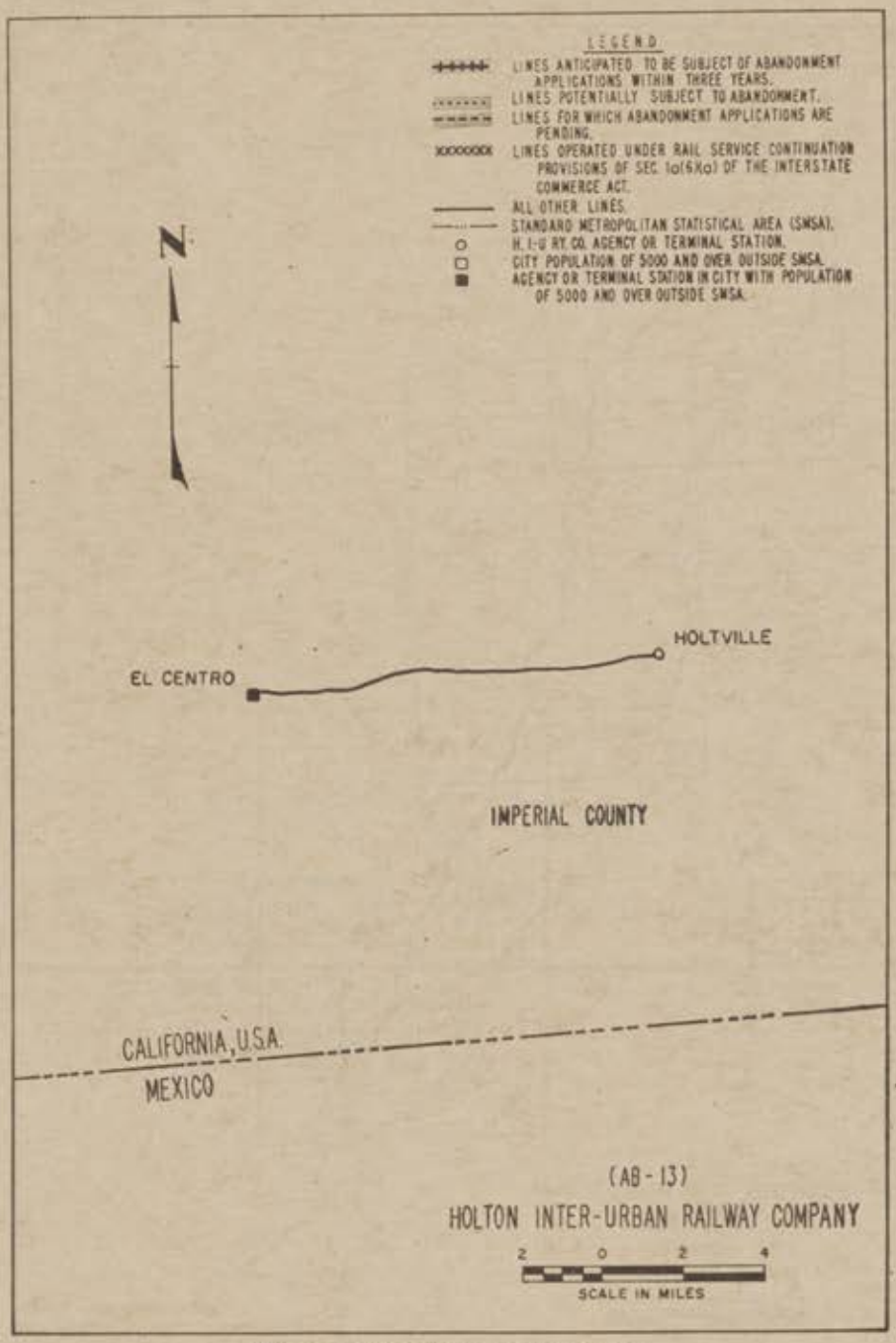
HOLTON INTER-URBAN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Holton Inter-Urban Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 13 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–13 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13472 Filed 5-11-77;8:45 am]

[AB 14 (SDM)]

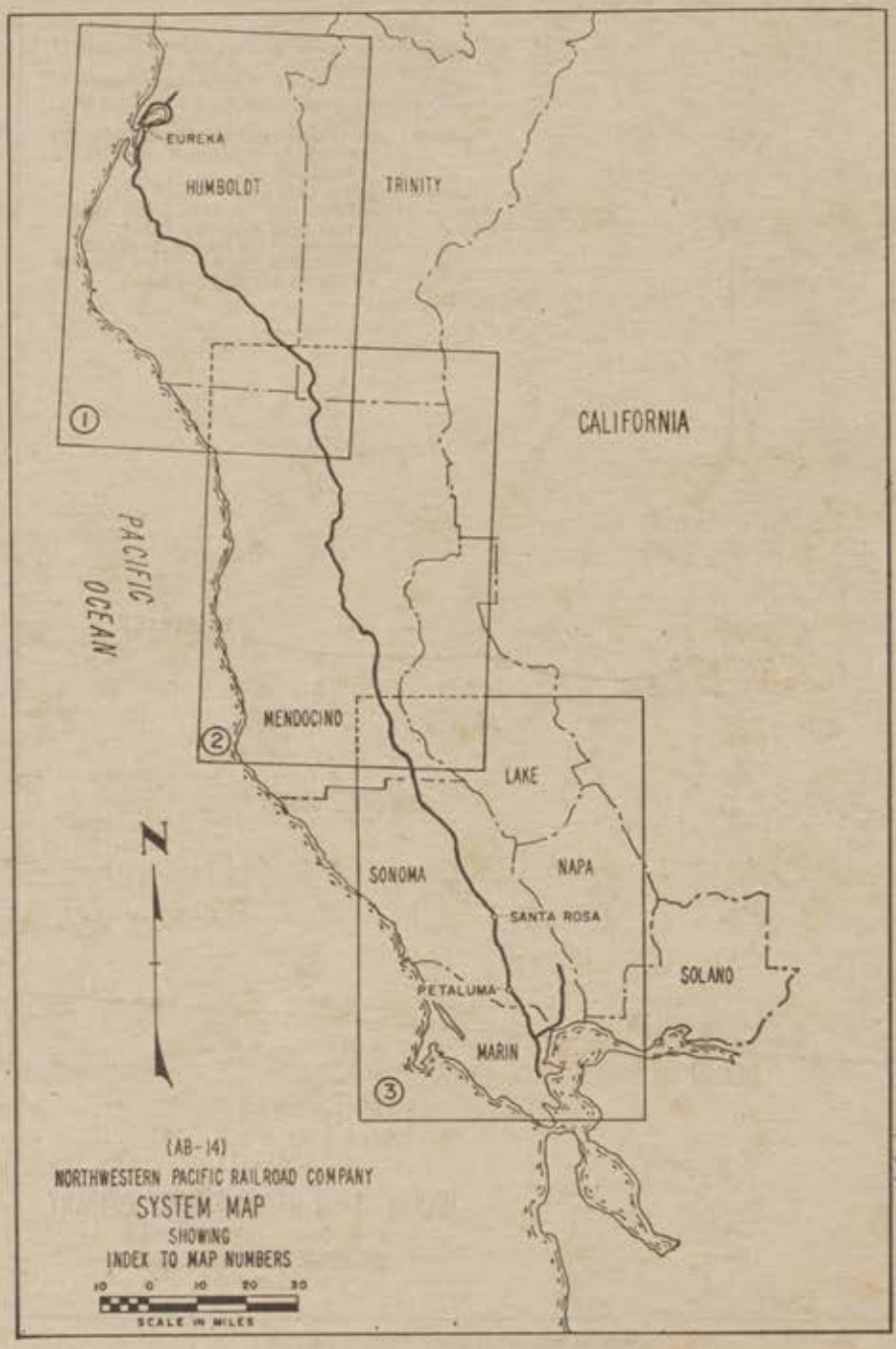
NORTHWESTERN PACIFIC RAILROAD CO.

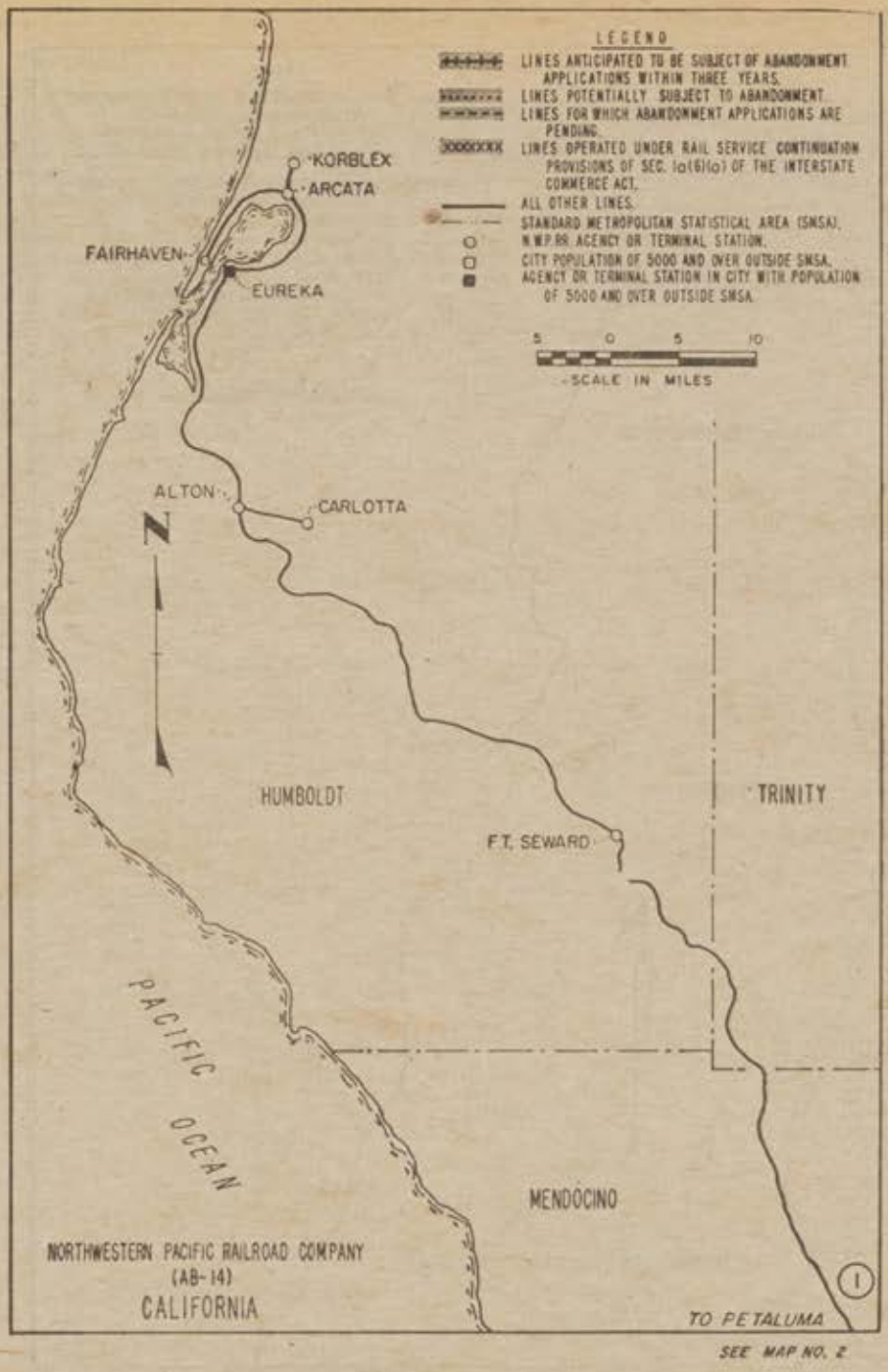
System Diagram Map

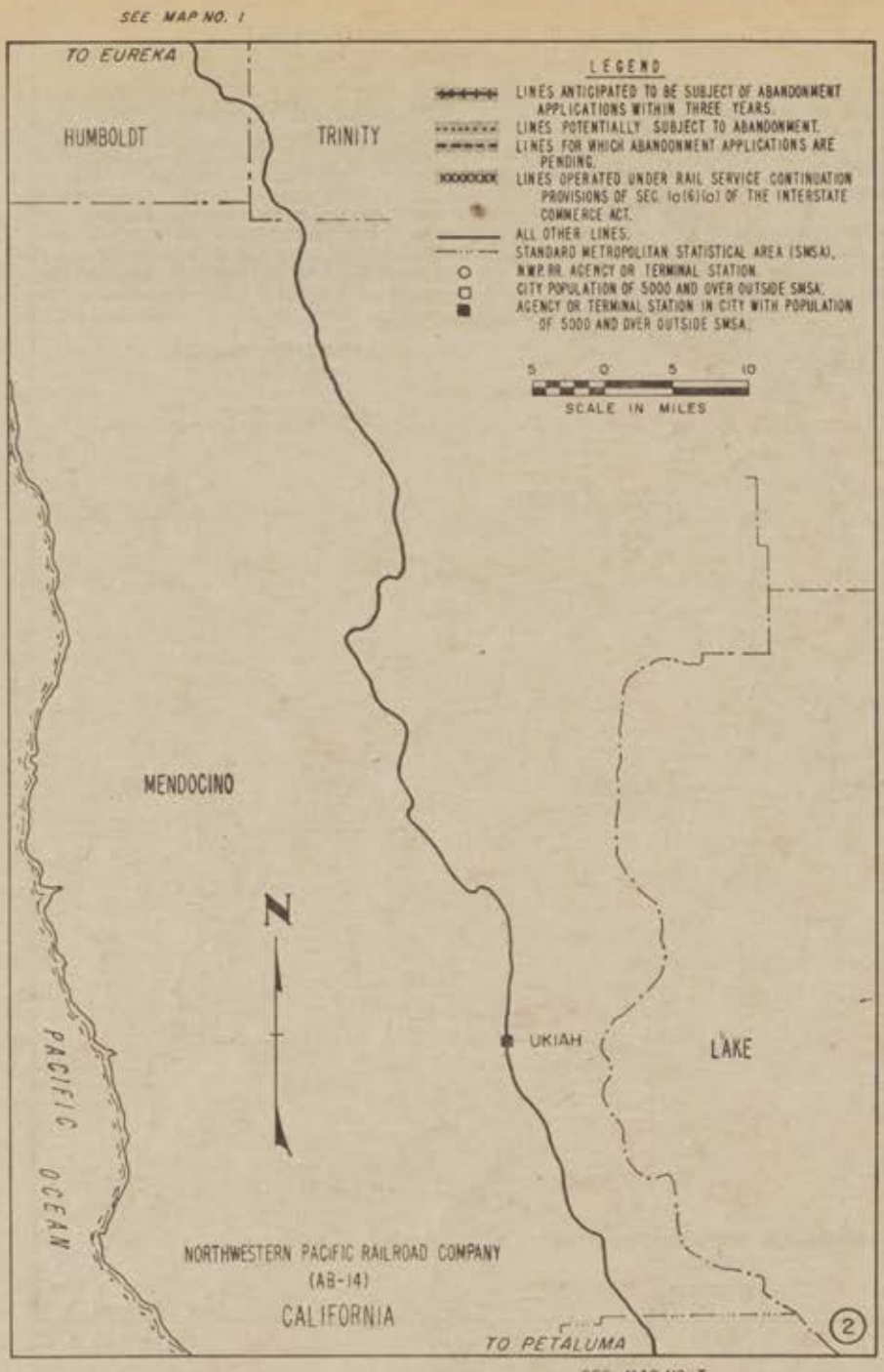
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Northwestern Pacific Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 14 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

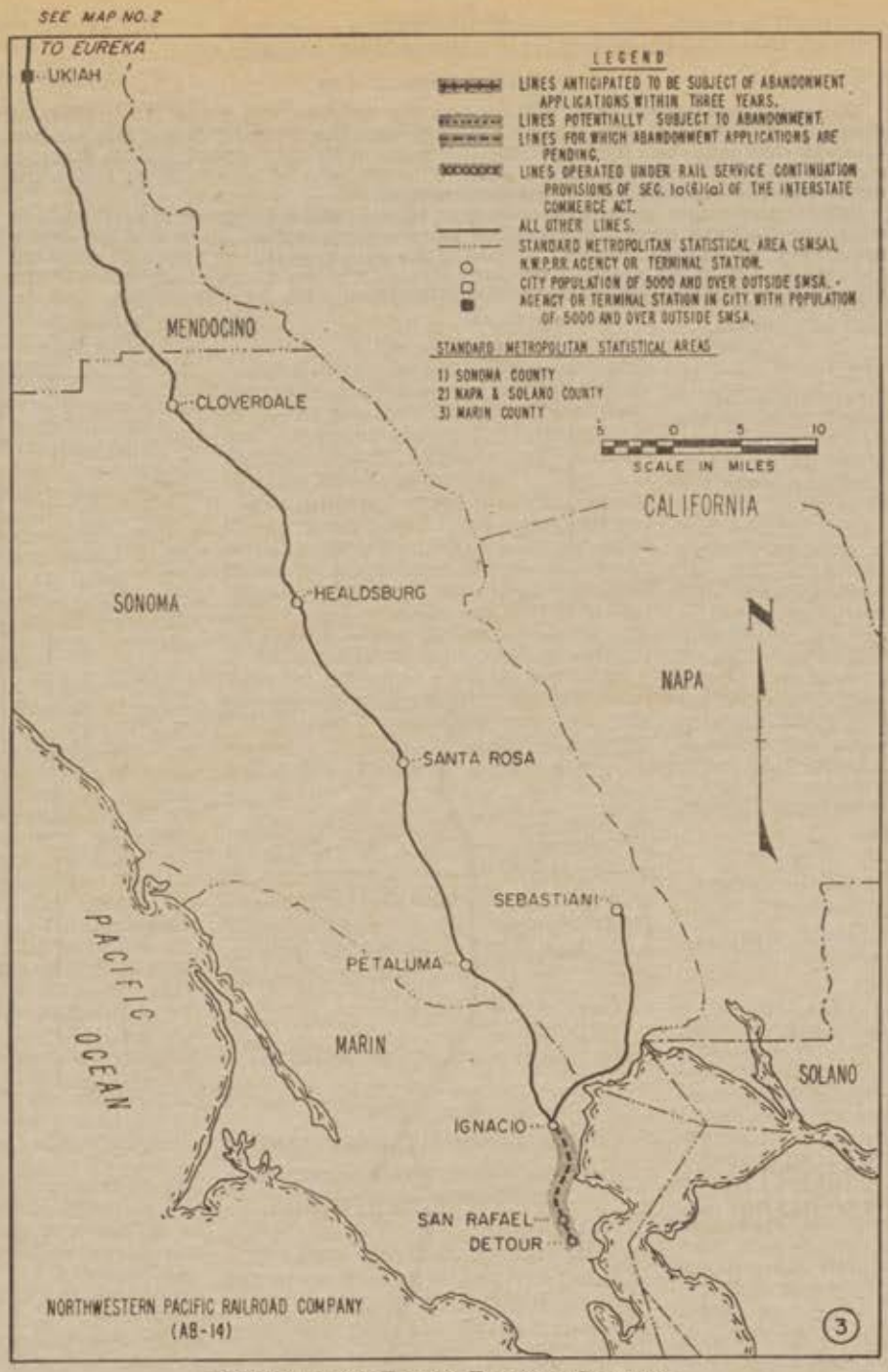
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–14 (SDM).

ROBERT L. OSWALD,
Secretary.




LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
N.W.P.RR. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
5 0 5 10
SCALE IN MILES
KORBLEX
ARCATA
FAIRHAVEN
EUREKA
ALTON
CARLOTTA
N
HUMBOLDT
TRINITY
F.T. SEWARD
PACIFIC OCEAN
MENDOCINO
NORTHWESTERN PACIFIC RAILROAD COMPANY
(AB-14)
CALIFORNIA
1
TO PETALUMA
SEE MAP NO. 2


SEE MAP NO. 1
TO EUREKA
HUMBOLDT
TRINITY
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
NWP.RR. AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
5 0 5 10
SCALE IN MILES
MENDOCINO
N
UKIAH
LAKE
PACIFIC OCEAN
NORTHWESTERN PACIFIC RAILROAD COMPANY
(AB-14)
CALIFORNIA
TO PETALUMA
2
SEE MAP NO. 3



NORTHWESTERN PACIFIC RAILROAD COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.21), the following is a description of lines of the Northwestern Pacific Railroad Company as shown on the system diagram map:

LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING BEFORE THE INTERSTATE COMMERCE COMMISSION

California

(1) (a) Designation of Line: San Rafael Branch.
(b) States in which Located: California.
(c) Counties in which Located: Marin.
(d) Milepost Locations: 14.329 at or near Detour to 25.821 at or near Ignacio.
(e) Agency or Terminal Stations on the Line: Detour (milepost 14.329), San Rafael (milepost 17.0), Ignacio (milepost 25.8).

(Map No. 3)

* * * * * * *

[FR Doc.77-13473 Filed 5-11-77;8:45 am]

[AB 149 (SDM)]

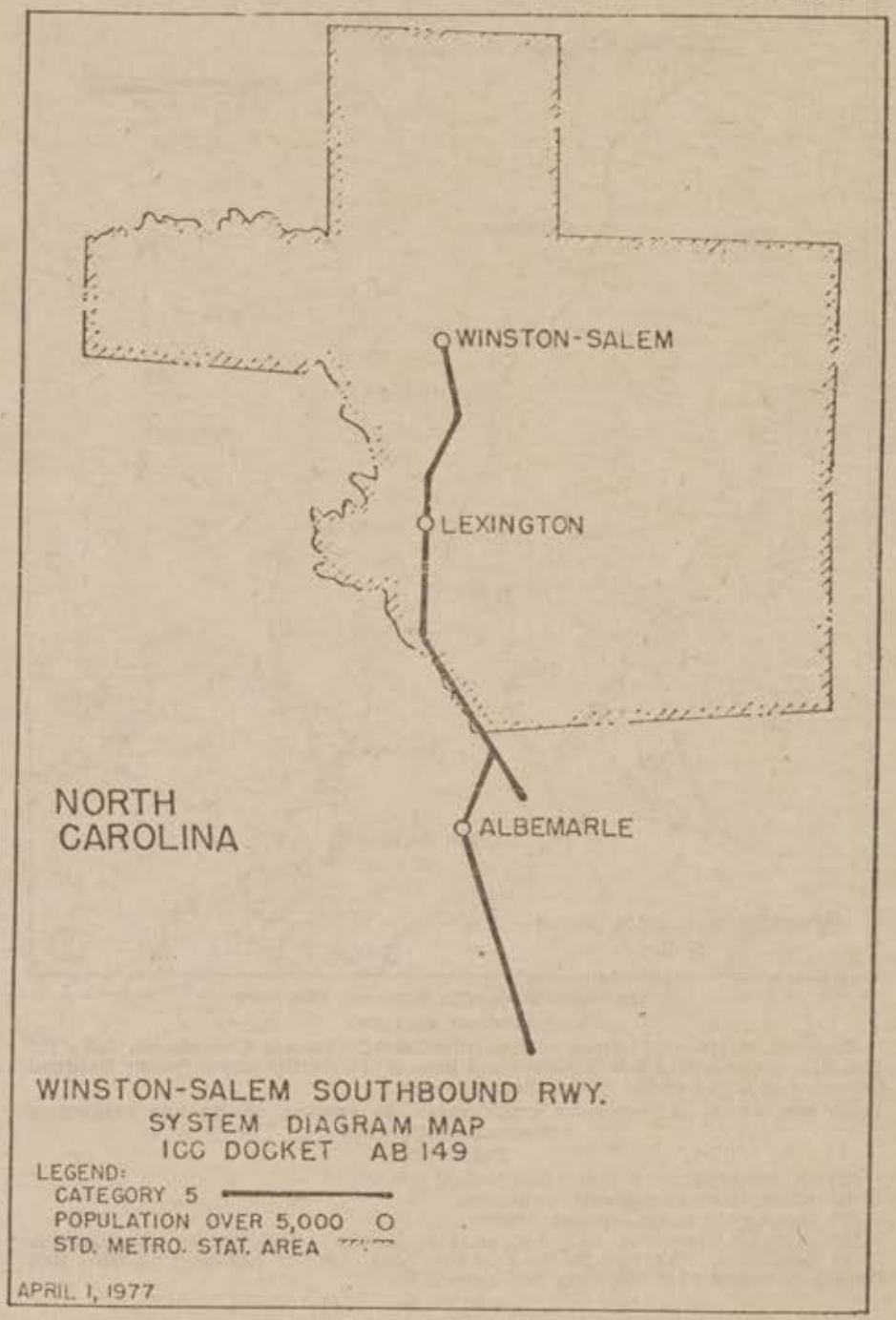
WINSTON-SALEM SOUTHBOUND RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Winston-Salem Southbound Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB–149 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–149 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13474 Filed 5-11-77;8:45 am]

[AB 18 (Sub-No. 6) Finance Docket No. 27412]

CHESAPEAKE & OHIO RAILWAY CO.

Abandonment of Line; Trackage Rights

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of 11.63 miles of branch line between Coleman and Union, Isabella County, Mich., by the Chesapeake and Ohio Railway Company and the proposed acquisition by the Chesapeake and Ohio Railway Company of trackage rights over 15.40 miles of main line track and 0.91 miles of connecting track of the former Ann Arbor Railroad Company between Mt. Pleasant and Clare in Isabella County, Mich., if approved by the Commission, do not contitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic volume on the line proposed for abandonment is low and the environmental impacts associated with the possible diversion of rail traffic to motor carrier should be minimal. Most of the traffic on the line is generated at Mt. Pleasant and will continue to receive applicant's rail service over the Ann Arbor line between Mt. Pleasant and Clare if the application for trackage rights is approved. The State has already assumed responsibility for the Ann Arbor line and is negotiating the trackage rights agreement with the Chessie System at this time. The State has also proposed a Solvent Carrier Subsidy for the C&O line proposed for abandonment, if the action is approved. Because rail service will probably continue for the majority of affected shippers, there should be no serious adverse impact on community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13620 Filed 5-11-77;8:45 am]

[AB 19 (Sub-No. 31)]

BUFFALO, ROCHESTER, ANT PITTSBURGH RAILWAY CO. AND BALTIMORE AND OHIO RAILWAY CO.

Abandonment

APRIL 29, 1977.

In the matter of Buffalo, Rochester and Pittsburgh Railway Company Abandonment—and abandonment of operations—by the Baltimore and Ohio Railway Company—between Guthrie Spur Junction and Tidedale in Indiana County, Pennsylvania.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.

Said comments, which were made by the applicants, have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13619 Filed 5-11-77;8:45 am]

[AB 94 (Sub-No. 1)]

EL PASO UNION PASSENGER DEPOT CO.

Abandonment All Within City of El Paso, El Paso County, Texas

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq. 2. A notice setting forth this conclusion was served February 2, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13617 Filed 5-11-77;8:45 am]

[AB 19 (Sub-No. 11)]

FAIRMONT, MORGANTOWN AND PITTSBURGH RAILROAD CO. AND THE BALTIMORE AND OHIO RAILROAD CO.

Abandonment Portion Smithfield and Masontown Branch Between Strum and Leckrone, in Fayette County, Pennsylvania

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental thershold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Said comments, which were made by the Menallen Coke Company, have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13618 Filed 5-11-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 9, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before May 27, 1977.

FSA No. 43361—*White and Buff-Colored Cement from Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-671), for interested rail carriers. Rates on white and buff-colored cement, in carloads, as described in the application, from specified points in Texas, to points in Indiana, Michigan and Ohio.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 80 to Southwestern Freight Bureau, Agent, tariff 325-B, I.C.C. No. 5156. Rates are published to become effective on June 11, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13616 Filed 5-11-77;8:45 am]

[Notice No. 61]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 6, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1328 (Sub-No. 26TA), filed April 11, 1977. Applicant: MGS TRANSPORTATION, INC., P.O. Box 270, Alexandria, Ind. 46001. Applicant's representative: Charles Garrett, P.O. Box 270, Alexandria, Ind. 46001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool and mineral wood products*, between the plantsite of Johns-Manville Sales Corporation at Alexandria, Ind. and rail piggyback facilities in the state of Indiana restricted to traffic having a prior or subsequent movement by rail, under a continuing contract with Johns-Manville Sales Corporation, for 180 days. Supporting shipper: Johns-Manville Sales Corporation, 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: D/S J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 20916 (Sub-No. 23TA), filed April 20, 1977. Applicant: JOHN T. SISK, Rt. 2, Box 182-B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden landscaping ties*, from the plantsites of Anderson Lumber Company at Amelia, Va., Barnes Lumber Corporation at Charlottesville, Va., and H. H. Nasch Timber Corporation at Gladys, Va., to points in New Jersey, and points in Westchester County, Long Island, Suffern and Spring Valley, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Valley Timber & Deck Sales, Inc., P.O. Box 734, Westwood, N.J. 07675. Send protests to: Interstate Commerce Commission, 12th and Constitution Ave., N.W., Rm. 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 31389 (Sub-No. 226TA), filed April 14, 1977. Applicant: McLEAN TRUCKING COMPANY, 617 Waughtown St., Winston-Salem, N.C. 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the site of United Gas Pipe Line Company Compressor Station near Vinton, La., as an off-route point in conjunction with applicant's regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Gas Pipe Line Company, P.O. Box 1478, Houston, Tex. 77001. Send protests to District Supervisor, Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 42011 (Sub-No. 34TA), filed April 11, 1977. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, 13309 E. Apache Street, Tulsa, Okla. 74112. Applicant's representative: James W. Hightower, 136 Wynnewood Prof. Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Arkansas and Oklahoma to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Associated Producers, Inc., 5005 N. Pennsylvania Ave., Oklahoma City, Okla. 73112. Send protests to: District Supervisor, Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 48213 (Sub-No. 45TA), filed April 15, 1977. Applicant: C. E. LIZZA, INC., P.O. Box 447, Latrobe, Pa. 15650. Applicant's representative: William A. Gray, Wick, Vuono, & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives and fireworks*, from New Castle, Pa., to points in Michigan and Minnesota, under a continuing contract with Vitale Fireworks Manufacturing Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vitale Fireworks Manufacturing Company, 302 Wilson Road, New Castle, Pa. 16103. Sent protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 56409 (Sub-No. 13TA), filed April 19, 1977. Applicant: MAJOR TRANSPORT, INC., Box 204, Highway 135 & Airport Road, Palmyra, Wis. 53156. Applicant's representative: David V. Purcell, 111 E. Wisconsin Ave., Milwaukee, Wis. 53202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grass pellets*, from the plantsites and facilities of Warren's Turf Nursery, Inc. in Jefferson County, Wis., to Toledo, Ohio and points in Alabama, Arkansas, Georgia, Illinois, Maryland, Massachusetts, and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Warren's Turf Nursery, Inc., 8400 W. 111th St., Palos Park, Ill. 60464 (Maurice Rosener). Sent protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, Wis. 53202.

No. MC 104683 (Sub-No. 42TA), filed April 12, 1977. Applicant: TRANSPORT, INC., P.O. Box 1524, Hattiesburg, Miss. 39401. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Escambia County, Ala., to Petal, Miss., from 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Martin Gas Sales, Inc., Drawer 191, Kilgore, Tex. 75662. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 106400 (Sub-No. 108TA), filed April 12, 1977. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8525, Sugar Creek, Mo. 64054. Applicant's representative: Harold D. Holwick, P.O. Box 12628, North Kansas City, Mo. 64116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, in tank vehicles between Kansas City, Mo. and the states of Missouri, Kansas, Arkansas, and Oklahoma, for 180 days. Supporting shipper: Ralston Purina Company, 2334 Rochester Avenue, Kansas City, Mo. 64120. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 111729 (Sub-No. 698TA), filed April 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cardiac pacemakers, related accessories, instruction booklets, specification sheets, and identification charts*, between Freeport and Houston, Tex., on traffic having an immediately prior or subsequent movement by air, for 180 days. Supporting shipper: Intermedics, Inc., P.O. Box 617, Tarpon Inn Village, Freeport, Tex. 77541. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 699 TA), filed April 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers and records, audit and accounting media, and replacement parts* related to the mining industry, between Big Stone Gap, Va., on the one hand, and, on the other, Clothier, Crab Orchard, Leivasy, and Tams, W. Va., for 180 days. Supporting shipper: Westmoreland Coal Company, P.O. Drawer A, Big Stone Gap, Va. 24219. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112520 (Sub-No. 336TA), filed April 15, 1977. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, transporting: *Motor Oil*, in bulk, from Jacksonville, Fla., to Niota, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sun Oil Co., 3101 Talleyrand Ave., Jacksonville, Fla. 32202. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 118989 (Sub-No. 156TA), filed April 13, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Roland Draves (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic containers* from Burlington, Wis., to Kansas City, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Diversified Industries, Highway 8350, Burlington, Wis. 53105 (Richard W. Olson). Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Rm 619, Milwaukee, Wis. 53202.

No. MC 123774 (Sub-No. 29TA), filed April 18, 1977. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from Summerville, Pa., to points in New York and New Jersey, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hanley Company, Inc. Summerville, Pa. 15864. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, Pa. 15222.

No. MC 126555 (Sub-No. 45TA), filed April 11, 1977. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, S. Dak. 57701. Applicant's representative: Barry C. Burnette, P.O. Box 3000, Rapid City, S. Dak. 57709. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from Sturgis, S. Dak., to Rapid City, S. Dak., for subsequent movement by rail to Mosinee, Wis., for 180 days. Supporting shipper: Dickson Forest Products, Inc., Box 736, Sturgis, S. Dak. 57785, Charles N. Davis, Plant Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 124306 (Sub-No. 26TA), filed April 19, 1977. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Francis W. McInerny, MacDonald & McInerny, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the facilities of Union Texas Petroleum at or near Hattiesburg, Miss., to Tirzah, Florence, Sumter, and Hartsville, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Peoples Natural Gas Company of SC, & Subsidiary—Supertane Gas Co., Florence, S.C. Send protests to: Archie W. Andrews, Dist. Supvr., Bureau of Operations, ICC, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 127047 (Sub-No. 22TA), filed April 12, 1977. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Implement cabs, bale loaders, combine scanners, and accessories for implement cabs*, from Newton and Peabody, Kans., to points in the United States (except Hawaii and Alaska), restricted to traffic originating at the plant and warehouse facilities of Full Vision, Inc., of Newton, Kans., for 180 days. Supporting shipper: Full Vision, Inc., Box 647, Newton, Kans. 67114. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Building, Wichita, Kans. 67202.

No. MC 117568 (Sub-No. 12TA), filed April 8, 1977. Applicant: KEMPT TRUCK LINES, INC., P.O. Box 156, Verona, Mo. 65769. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes*, from the plantsite and warehouse facilities of Husky Industries, Inc., located at or near Branson, Mo., to points in Texas, Louisiana, Arkansas, Oklahoma, Arizona, New Mexico, Kansas, and Colorado, under a continuing contract with Husky Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Industries, Inc., 62 Perimeter Center East, Atlanta, Ga. 30345. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 128638 (Sub-No. 14TA), filed April 14, 1977. Applicant: CENTRAL GRAIN HAULERS, INC., Route 1, Van Meter Road, P.O. Box 746, Winchester, Ky. 40391. Applicant's representative: William L. Willis, Suite 708, McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, in bulk, except in tank vehicles, from Cincinnati, Ohio, and points in its commercial zone, to Bristol, Va., and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper: Southern States Cooperative, Inc., P.O. Box 1657, Richmond, Va. 23213. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Rm. 216, Bakhaus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 134755 (Sub-No. 100TA), filed April 11, 1977. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, from Emlenton and New Kensington, Pa., and Congo and St. Marys, W. Va., to points in Louisiana, Mississippi, and Tennessee, for 180 days. Supporting shipper: Quaker State Oil Refining Corporation, P.O. Box 989, Oil City, Pa. 16301. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 138328 (Sub-No. 35TA), filed April 11, 1977. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, 14507 Frontier Rd., P.O. Box 37308, Omaha, Nebr. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel doors, steel door frames, and brass, bronze, copper, and steel hardware*, from the plantsite of The Ceco Corporation located at or near Milan, Tenn., to points in Illinois (except Broadview, Morton, and Peoria, Ill.), Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. R. D'Agento, Traffic Manager, The Ceco Corporation, 5601 West 26th Street, Chicago, Ill. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138762 (Sub-No. 6TA), filed April 13, 1977. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th and 11th Streets, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, between the port of entry at or near Porth Huron, Mich., on the United States-Canada International Boundary line on the one hand, and, on the other, points in Ohio, Michigan, and Indiana, on traffic originating in Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. C. Mewdell, C.I.T.T., Ontario District Traffic Mgr., Canadian Industries Limited, 45 Sheppard Ave. East, Willowdale, Ontario, M2N 2Z9. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Ave. North, Billings, Mont. 59101.

No. MC 138762 (Sub-No. 7TA), filed April 13, 1977. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th and 11th Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plantsite or warehouse facilities of CF Industries at or near Port Huron, Mich., to the port entry on the United States-Canada International Boundary line at or near Port Huron, Mich., restricted to traffic destined to points in Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Fred Loftin, Manager, Transportation Dept., United Co-Operatives of Ontario, Box 527, Mississauga, Ontario, Canada L5A 3A4. Send protests to: District Supervisor Paul J. Lebane, Interstate Commerce Commission, 2602 First Ave. North Billings, Mont. 59101.

No. MC 138872 (Sub-No. 4TA), filed April 13, 1977. Applicant: ART ARMITAGE TRUCKING, 162 Vimy Road, Bible Hill, Nova Scotia, Canada B2N 4O9. Applicant's representative: Douglas B. Chapman, 109 Main Street, Bar Harbor, Maine 04609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and articles* associated with the manufacturing of tires, from the port of entry on the International Boundary line between the United States and Canada at or near Calais, Maine, to Woodland, Maine, restricted to transportation having subsequent movement by rail, under a continuing contract with Michelin Tires Limited, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michelin Tires (Canada) Limited, P.O. Box 399, New Glasgow, Nova Scotia, Canada B2H 5E6. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl St., Portland, Maine 04111.

No. MC 140587 (Sub-No. 2TA), filed April 11, 1977. Applicant: CECIL CLAXTON, East Elm Street, Wrightsville, Ga. 31096. Applicant's representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine* (not in bulk), from Tampa, Fla., to Savannah, Brunswick, Albany, Columbus, Macon, Dublin, Augusta, Atlanta, Athens, and Rome, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Sales Co., 322 Souperton Ave. E., Dublin, Ga. 31021. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 141399 (Sub-No. 2TA), filed April 13, 1977. Applicant: GEARY S. BONVILLE, East State Street, Presque Isle, Maine 04769. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and limestone* in bulk and in bags, from Presque Isle, Maine, to all ports of entry on the International Boundary line between the United States and Canada along the Maine-New Brunswick borders and from all ports of entry on the International Boundary line between the United States and Canada along the Maine-New Brunswick borders to points in Aroostook, Penobscot and Washington Counties, Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 3 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies may be examined at the field office named below. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl St., Portland, Maine 04111.

No. MC 142115 (Sub-No. 2TA), filed April 15, 1977. Applicant: PIKE'S, LIMITED, P.O. Box 215, Stephenville, Newfoundland, Canada. Applicant's representative: Peter L. Murray, 30 Exchange St., Portland, Maine 04111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oil and vegetable oil* in bulk from Pawtucket, R.I., to ports of entry on the International Boundary Line between the United States and Canada at or near Houlton and Calais, Me., restricted to traffic having destination in Prince Edward Island, Canada, for 180 days. Supporting shipper: Colfax, Incorporated, 38 Colfax St., Pawtucket, R.I. 02860. Send protests to: Donald G. Weiler, District Supervisor, Bureau Of Operations Interstate Commerce Commission, Rm. 307, 76 Pearl Street Portland, Me. 04111.

No. MC 142012 (Sub-No. ITA), filed April 18, 1977. Applicant: OSBORNE WEST, LTD., 220 Erie Street, Pomona, Calif. 91766. Applicant's representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, Transporting: (1) *General commodities* (except Class A and B explosives) in ocean containers having a prior or subsequent move by water, and (2) *Empty containers, chassis and trailers*, between points in Oregon and Washington, on the one hand, and on the other, points in California, for 180 days. Supporting shipper(s) There are approximately ten (10) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142349 (Sub-No. 2TA), filed April 18, 1977. Applicant: SE-BE TRUCK LINE, INC., P.O. Box 392, Denver, Iowa 50622. Applicant's representative: Grant J. Merritt, Suite 415, 730 Second Avenue South, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products* from the Service Center of Jones & Laughlin Steel Corporation located at 2250 West 47th Street, Chicago, Ill., to points in Iowa, for 180 days. Supporting shipper: Jones & Laughlin Steel Corporation, 2250 West 47th Street, Chicago, Ill. 60609. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13621 Filed 5-11-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

1

AGENCY HOLDING THE MEETING: Commission on Civil Rights.

TIME AND DATE: 9 a.m.–12 p.m., 1:30 p.m.–5 p.m., Monday, May 16, 1977; 9 a.m. to conclusion of agenda, Tuesday, May 17, 1977.

PLACE: Open portion of meeting: Room 512; closed portion of meeting: Room 800, 1121 Vermont Avenue, NW., Washington, D.C.

STATUS: Part of the meeting will be open to the public and part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public 1:30 p.m.–5 p.m., Monday, May 16, 1977:

I. Approval of agenda.

II. Approval of minutes of last meeting.

III. Staff Director's report:

A. Status of funds;

B. Personnel report;

C. Correspondence:

1. Letter from Hon. Andrew Young re receipt of reports;

2. Letters from Maurice Mitchell re Colorado SAC report;

3. Letter from Asian American Center on Civil Rights Digest;

4. Letter from Urban Environment Conference on EPA;

D. Office Directors' reports.

IV. Report re Civil Rights Developments in the Midwest Region.

V. Rechartering of Colorado and South Carolina Advisory Committees.

VI. Decision on Report re School Desegregation in Fort Wayne, Indiana.

VII. Decision on Florida SAC Recommendation re Citizenship Requirement for Peace Officers.

VIII. Decision on Proposal re Commission Indian Hearing.

IX. Decision on Proposal re State Civil Rights Agencies Study.

X. Discussion of Hearing on Bakke Case.

XI. Report on Program Development and Planning.

XII. Federal Advisory Committee Act Reports (information only).

XIII. Developments re Florida SAC Report on Jacksonville (information only).

XIV. Commission Complaints Process (information only).

MATTERS TO BE CONSIDERED: Portion closed to the public on May 16, 1977, at 9 a.m., and on May 17, at 9 a.m.:

(1) Review of Los Angeles report on school desegregation.

(2) Review of National Media Study.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit (202–254–6697).

[S-376-77 Filed 5-9-77;4:33 p.m.]

2

AGENCY HOLDING THE MEETING: Commission on Civil Rights.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 21898, April 29, 1977.

PREVIOUS ANNOUNCED TIME AND DATE OF MEETING: May 3, 1977, 4:30 p.m.

CHANGES IN THE MEETING: Meeting rescheduled for May 12, 1977. Time: 12 p.m.; place: unchanged.

ADDITIONAL AGENDA ITEM: Discussion of propose letter to the Attorney General respecting participation by the United States as Amicus Curiae in a case before the Supreme Court involving affirmative action admission programs of institutions of higher education.

STATUS: Portion of meeting regarding new agenda item will be open to the public. The remaining portion will be closed as previously announced.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit (202–254–6697).

[S-377-77 Filed 5-9-77;4:33 pm]

3

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: May 10, 1977, 2 p.m.

LOCATION: 8th floor Conference Room, 1111 18th St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *CPSC Reorganization Plan.* The Commission will meet to discuss implementation of a reorganization plan proposed by Chairman Byington. In voting to hold the meeting, the Commission determined that Agency business requires a meeting without seven days advance notice, and that the meeting should be closed.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202–634–7700.

[S-380-77 Filed 5-10-77;11:27 am]

4

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, May 17, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW, Washington, D.C. 20506.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

(1) *Freedom of Information Act Appeals; Nos. 77–3–FOIA–53, 57 and 58.* Three requests, on behalf of an employer charged with discrimination by individuals, for intra-agency memoranda contained in the Commission's files.

(2) *Civil Service Commission Equal Employment Rules and Regulations on Class Action and Consolidation of Complaints of Discrimination.* The Commissioners will receive an oral report by the Director of the Commission's own Office of Equal Employment Opportunity concerning new amendments to these rules and regulations.

(3) *Processing of Charges against State and Local Agencies; Equal Opportunity Clause of Contract.* The Commission will consider a recommendation by the Director of Compliance Programs that a policy be approved that all charges of employment discrimination against agencies administering state laws or local ordinances prohibiting such discrimination, and receiving or applying for funds from EEOC, be processed through an EEOC office outside of the EEOC region within which the charged agency is located.

(4) *Providence (Rhode Island) Human Relations Commission; Funding Recommendation.* The Commission will consider a recommendation by the Director of Compliance Programs that this agency be provided funds by EEOC to develop procedures and train staff to handle charges of discrimination referred to the agency by EEOC.

Portions closed to the public:

(1) *Freedom of Information Act Appeal No. 77–3–FOIA–56.* A request, on behalf of an employer charged with

discrimination by an individual, for information obtained from the individual during conciliation efforts.

(2) *Freedom of Information Act Appeal No. 77-3-FOIA-69.* A request by a contractor for proprietary information submitted by two other contractors who were awarded contracts for a study.

(3) *Litigation Authorization.* Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations. (42 FR 13830, March 14, 1977.)

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued May 6, 1977.

[S-381-77 Filed 5-10-77;11:27 am]

5

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Tuesday, May 17, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *Nonadjudicative Matters:*

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meeting of May 10, 1977.

(2) Consideration of Proposed Issuance of Complaints in File No. 701 0047, Beer Industry.

(3) Consideration of Two Related Part II Matters:

(a) Proposed Issuance of Complaint in (Nonpublic) Part II Matter.

(b) Proposed Disposition of Union Carbide Corp., File No. 751 0011.

(4) Consideration of Proposed Issuance of Complaint and Injunction Action in (Nonpublic) Part II Matter.

Adjudicative Matters Under Part 3 of the Rules of Practice:

(1) Approval of Minutes of Adjudicative Matters Considered at Meeting of May 3, 1977.

(2) Consideration of Respondent's request for court enforcement of subpoenas duces tecum in Docket 8992, Coca-Cola Bottling Company of New York, Inc.

(3) Consideration of final decision in Docket No. 9019, Genesco, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; Recorded Message, 202-523-3806.

[S-382-77 Filed 5-10-77;11:27 am]

6

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Wednesday, May 18, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: (1) Consideration of amendments to Rules of Practice §§ 2.34, 2.35, and 3.25(d), 16 CFR §§ 2.34, 2.35, and 3.25(d) to require that certain information relating to the proposed settlement of a pending investigation or complaint be placed on the public record at the beginning of the 60-day period for public comment. See 41 FR 36823 (September 1, 1976).

(2) Consideration of proposed reduction of sample size Quarterly Financial Report (QFR) Program.

(3) Report from General Counsel on Congressional Matters.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; Recorded Message, 202-523-3806.

[S-383-77 Filed 5-10-77;11:27 am]

7

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: 2 p.m., May 18, 1977.

PLACE: Hearing Room, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Reorganization.
2. Agenda.
3. Minutes.
4. Approval of report in Investigation 332-80 (Watches).
5. Television receivers:

(a) Investigation 603-TA-1—Status report;

(b) Investigation 337-TA-23—Review of presiding officer's rulings issuing subpoenas for non-party Commission records pursuant to notice of December 20, 1976.

6. Possible study on automobile imports—See memorandum from the Deputy Director of Operations, dated April 28, 1977.
7. Judge Renick's memorandum of April 29, 1977, subject: Wearing of Judicial Robes (if necessary).
8. Standard summaries questionnaires—See memoranda from the Director of Industries, dated May 2, 1977, and from Commissioner Bedell, dated May 6, 1977.
9. Items left over from previous agenda.

Portions closed to the public: 1. Reorganization (portions respecting the selection of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202-523-0161).

[S-374-77 Filed 5-9-77;4:32 pm]

8

AGENCY HOLDING THE MEETING: National Science Foundation.

The National Science Board, the policy-making body of the National Science Foundation, will meet on Thursday-Friday, May 19-20, 1977, in Room 340, 1800 G Street, NW., Washington, D.C. 20550. Much of this meeting will be open to the public in keeping with the Government in the Sunshine Act. Attached is an agenda for the meeting. As indicated the session of the meeting that will be open to the public is scheduled for Thursday, May 19, from 1 to 4:30 p.m. Should an additional open session be necessary to complete the open session agenda, that session will be held about 3 p.m., Friday, May 20.

The agenda also indicates the subjects to be discussed in both open and closed sessions.

Requests for information on the items may be directed to the Office of the National Science Board, Washington, D.C., which may be reached on 202-632-5840. If the person receiving your call is unable to answer your question, please ask for Miss Vernice Anderson, Executive Secretary, National Science Board.

AGENDA—27 ANNUAL (190TH) MEETING, NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, WASHINGTON, D.C., MAY 19-20, 1977

THURSDAY, MAY 19—1-4:30 P.M. OPEN SESSION

1. Minutes—189th Meeting.
2. Chairman's Report.
3. Director's Report.
4. Board Committees—Reports on Meetings.
5. NSF Advisory Groups:
   (a) Reports on Meetings;
   (b) Board Representation at Future Meetings.
6. Repotrs on Annual Reviews of National Research Centers.
7. Materials Research Laboratory Site Visits.
8. Annual Business:
   (a) Meeting Schedule for Calendar Year 1978;
   (b) Annual Consideration of National Science Board Committees.
9. Other Business.
10. Next Meetings:
    (a) National Science Board, 191st Meeting June 23-24;
    (b) NSB Committee, Executive Committee—77-5 Meeting—June 22.

THURSDAY, MAY 19—4:30-5:30 P.M., CLOSED SESSION

A. Minutes—Closed Session—189th Meeting.

B. Annual Business:

1. Report of Ad Hoc Nominating Committee for Board Officers; Selection of Two Members of Executive Committee (for two-year terms expiring in May 1979);
2. Annual Report of Executive Committee.

C. Committee Reports:

1. Ad Hoc Committee on NSF Staff and NSB Nominees;
2. Meetings with High Government Officials.
D. Report on site location negotiations for NRCC computation center.
E. Consideration of proposed legislative initiative.

FRIDAY, MAY 20—8:30 A.M.-3 P.M., CLOSED SESSION

F. Grants and Contracts—Action Items:
1. Astronomical, Atmospheric, Earth, and Ocean Sciences;
2. Biological, Behavioral, and Social Sciences—Social Sciences;
3. Mathematical and Physical Sciences, and Engineering;
4. Research Applications—Advanced Energy and Resources Research and Technology;
5. Scientific, Technological, and International Affairs—Science Resource Studies.

[S-379-77 Filed 5-10-77;10:20 am]

9

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

TIME AND DATE: 9:30 a.m., Thursday, May 19, 1977 (NM-77-11).

PLACE: Conference Rooms 8A, B, and C, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. *Railroad Accident Report.* Collision of Two Conrail Commuter Trains in New Canaan, Connecticut, on July 13, 1976. 2. *Discussion.* Candidate Special Studies for Board Approval.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming (202-755-4930).

[S-378-77 Filed 5-10-77;9:46 am]

10

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 23027, May 5, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 12, 1977, 9:30 a.m. (NM-77-9a).

CHANGES IN THE MEETING: The following agenda item has been added: *Letter* to Senator Magnuson re S. 568, a Bill to Regulate Oil Tanker Transportation in Domestic and Foreign Commerce.

[S-375-77 Filed 5-9-77;4:33 pm]

federal register

THURSDAY, MAY 12, 1977

PART II

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

OPERATIONS REVIEW PROGRAM AMENDMENT NO. 2

Rotorcraft External-Load Operations

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15176; Amendment Nos. 91-138 and 133-6]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

Operations Review Program Amendment No. 2: Rotorcraft External-Load Operations

AGENCY: Federal Aviation Administration, FAA (DOT).

ACTION: Final rule.

SUMMARY: These amendments require all rotorcraft external-load operations to be conducted under Part 133 whether or not they are conducted for compensation or hire, thus allowing restricted category rotorcraft to be operated for compensation or hire under Part 133.

This amendment resulted from proposals from the Aerial Crane Operators Committee (ACO) recommending that restricted category rotorcraft external-load operations be conducted under the provisions of Part 133 and that Part 91 be amended to allow those operations to be conducted for compensation or hire.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. D. A. Schroeder, (AFS-901), Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 755-8715.

SUPPLEMENTARY INFORMATION: Interested persons have been given an opportunity to participate in the making of these amendments by a notice of proposed rule making (Notice 75-38; 40 FR 54188; November 20, 1975). In addition, pursuant to a notice of hearing (Notice 75-38A; 41 FR 7517; February 19, 1976) the FAA held two public hearings on Notice 75-38 (Washington, D.C. on March 18, 1976, and Seattle, Washington on March 25, 1976). The FAA also extended the comment period so that relevant comments submitted during and after the hearings could be considered. Each comment received in response to Notices 75-38 and 75-38A has been considered in the adoption of these amendments. Except where changes are specifically discussed, these amendments and the basis for them are the same as those contained in Notice 75-38.

On February 12, 1974, the FAA issued an invitation to submit proposals for consideration during the Airworthiness Review Program (Notice 74-5; 39 FR 5785; February 15, 1974). Two proposals were received from the ACO recommending that restricted category rotorcraft external-load operations be conducted under the provisions of Part 133, and that Part 91 be amended to allow those operations to be conducted for compensation or hire.

On February 26, 1975, the FAA issued an invitation to submit proposals for consideration during the Operations Review Program (Notice 75-9; 40 FR 8685; February 28, 1975). The FAA then published a Compilation of Proposals (see Notice 75-9A; 40 FR 24041; June 4, 1975) that would be considered as possible agenda items for the Operations Review Conference held December 1-5, 1975. Included in the Compilation were proposals to bring all rotorcraft external-load operations under Part 133.

The proposals ACO submitted for the Airworthiness Review were deferred for consideration with proposals that also concerned rotorcraft external-load operations appearing in the Operations Review Compilation. The proposals contained in Operations Review Program Notice No. 1 (Notice 75-38; 40 FR 54188; November 20, 1975) are generally based on the FAA's evaluation of proposals submitted for both the Airworthiness and Operations Reviews:

Proposal No.	Review	FAR	Proponent
495	Airworthiness	§91.39	ACO
540	do	§133.19	ACO
218	Operations	§91.39	FAA
219	do	§91.39	FAA
697	do	§133.10	FAA
698	do	§133.11	FAA
699	do	§133.13	FAA
700	do	§133.17	FAA
701	do	§133.19	FAA
703	do	§133.32	FAA

Specificaly, Notice No. 75-38 proposed amending Parts 91 and 133 of the Federal Aviation Regulations (14 CFR Parts 91 and 133) to: (1) require that all rotorcraft external-load operations, currently conducted under Part 91, be conducted under Part 133 regardless of whether they are conducted for compensation or hire; (2) prescribe appropriate operating limitations for restricted category rotorcraft external-load operations under that Part; (3) provide that Operator Certificates issued under Part 133 be effective for 24 months; and (4) except rotorcraft external-load operations from the requirement in § 91.39 which prohibits the operation of restricted category civil aircraft carrying persons or property for compensation or hire.

Because many of the comments received in response to Notice 75-38 discussed the merits of "standard" and "restricted" rotorcraft, a brief explanation of these terms is in order. A "standard" rotorcraft is one having a normal, utility, acrobatic or transport category type certificate issued under §§ 21.21, 21.27, or 21.29, and having a standard airworthiness certificate issued under § 21.183. These rotorcraft are often called "standard category" rotorcraft, and they are identified that way in the following discussion. A "restricted" category rotorcraft is one having a restricted category type certificate issued under § 21.25 and having a restricted category airworthiness certificate issued under § 21.185. They are called "restricted category" rotorcraft in the following discussion.

The proposal to amend § 91.39(b) and § 91.39(d) drew strong objections, primarily from those operators now certificated under Part 133. Those who oppose this change contend that the FAA would create an unsafe condition by allowing the use of restricted category (particularly military surplus) rotorcraft in Part 133 operations for compensation or hire. They argue that the current distinction between rotorcraft external-load operations conducted in restricted category rotorcraft and those conducted in standard category rotorcraft should be retained. They contend that the operating limitations proposed in Notice 75-38 are inadequate to provide an equivalent level of safety when restricted category rotorcraft are allowed to operate under Part 133.

Restricted category rotorcraft do not comply with all the airworthiness standards in Part 27 for normal category rotorcraft or in Part 29 for transport category rotorcraft. They are type certificated to airworthiness standards that are less stringent than those applicable to a standard category rotorcraft. Under § 21.25, an applicant is entitled to a type certificate for rotorcraft in the restricted category for special purpose operations if he shows that no feature or characteristic makes the rotorcraft unsafe when it is operated under the operating limitations prescribed for its intended use. In addition, § 21.27 allows certain surplus military aircraft to be certificated in the standard category if the applicant shows compliance with the applicable airworthiness certification standards.

Some restricted category rotorcraft brought under Part 133 are surplus military helicopters which have no civil counterpart. The Armed Services specify aircraft requirements and performance capabilities when soliciting aircraft construction bids that are directly and uniquely related to a particular military mission. The mission for a military rotorcraft (and particularly for external-load operations) may be quite similar to the mission of a civil rotorcraft. Other military requirements, however, specify equipment and structural changes that are not appropriate in an aircraft designed for civil use. These requirements may or may not improve the reliability or increase the safety aspects of the aircraft. Thus, while safety is a consideration in designing an aircraft manufactured for military use, it is not an overriding determinant. Therefore, some items must be changed when converting a surplus military rotorcraft to meet the civil requirements.

At the public hearings held in Washington, D.C., and Seattle, Washington, certain commenters argued that the operating limitations in proposed § 91.39(d) were not stringent enough. Essentially, they urged that external-load operations with restricted category rotorcraft should not be conducted over densely populated areas.

The FAA has long held that public demand for a specific kind of aircraft operation (evidence in this proceeding by numerous commenters strongly in favor of Notice 75–38) warrants to balanced set of airworthiness standards and operating rules which will ensure an appropriate level of safety. Based on the comments received and the record of the two public hearings held on Notice 75–38, the FAA has concluded that the operating limitations for restricted category rotorcraft proposed in the notice must be strengthened. The safety of persons and property on the surface will be adequately protected by prohibiting restricted category rotorcraft external-load operations over a densely populated area, in a congested airway or near a busy airport where passenger transport operations are conducted. These limitations are identical to those in § 91.39(d) that now apply to the operation of each restricted category aircraft.

In view of the differences between the airworthiness requirements applied to standard and restricted category rotorcraft, the FAA has adopted the limitations discussed above in a new § 133.45 (e) (rather than in § 91.39(d), as proposed). Those limitations do not apply to external-load operations conducted by standard category rotorcraft. The FAA has concluded that this amendment and the standards now contained in Part 133 will maintain an appropriate level of safety.

In Notice 75–38, the FAA proposed to amend § 91.39(b) to except rotorcraft external-load operations from the prohibition against operating a restricted category rotorcraft for compensation or hire. On further study, the FAA believes that this change may cause a misunderstanding. The FAA intends to make Part 133 applicable to all non-passenger-carrying civil rotorcraft external-load operations conducted in the United States by any-person other than as an air carrier (see § 133.1). The FAA does not intend to allow these operations with restricted category rotorcraft under § 91.39 beyond the grace period provided in § 133.11(b). Accordingly, the FAA is adopting a new § 91.39(f) which makes that section inapplicable to Part 133 operations after the grace period expires.

Commenters on both sides of the question of whether or not restricted category rotorcraft should be allowed to operate under Part 133, submitted accident report data in an attempt to support their position. Each side used the data to buttress their arguments that restricted category rotorcraft are either more or less safe than standard category rotorcraft when used in external-load operations. However, the accident data submitted lacked a delineation of aircraft population and exposure figures. Such data is not available from any known source. Therefore, the FAA could make no valid comparison or draw supportable conclusions on the sole basis of the data presented or otherwise available.

Notice 75–38 proposed to amend § 133.1 (Applicability) to make Part 133 applicable to all rotorcraft external-load operations whether or not the operation is conducted for compensation or hire. As adopted, a nonsubstantive editorial change to § 133.1 clearly indicates that Part 133 applies only to civil rotorcraft, and not to public rotorcraft operations.

Several commenters questioned the sufficiency of the 120 days allowed in proposed § 133.11 for issuance of a Rotorcraft External-Load Operator Certificate. These commenters expressed concern that the FAA could not conduct the necessary pre-certification inspections and process the resulting paperwork within the period proposed. The FAA does not agree.

The 120-day period in § 133.11 is adequate to process the anticipated number of applications for Rotorcraft External-Load Operator Certificates. Each operator will apply to the Flight Standards district office having jurisdiction over the area in which the applicant's home base of operation is located. No one district office will be responsible for all applications. In determining a suitable time period for certification of previously uncertificated operators, the FAA also considered the benefits to be derived from Part 133 certification. The FAA believes these benefits should be provided as soon as possible after these amendments became effective. Accordingly, § 133.11 allows 120 days for those operators who now operate under Part 91 to apply for and be issued a certificate under Part 133. They are not allowed, however, to operate for compensation or hire until they have been certificated under Part 133.

The proposal to amend § 133.13 to limit the duration of a Part 133 certificate to 24 calendar months drew objections from several commenters. They contended that the proposal was merely an unjustified encroachment of the FAA on rotorcraft external-load operations, and would impose administrative burdens on both the operators and the FAA. Other commenters stated that the proposals would be acceptable if the renewal process was simple and conducted expeditiously by district offices.

In proposing to limit the duration of a Part 133 certificate in § 133.13, the FAA considered the impact of the action on the inspection and administrative workload of Flight Standards district offices. The increased workload will not be so substantial as to have an adverse effect on the effectiveness of the certification program. Limiting the duration of Part 133 certificates to 24 calendar months, with attendant renewal requirements, will enable district offices to exercise the necessary control over the certificate holders and particularly over the new certificate holders who will now be certificated under Part 133. In addition § 133.13 is amended to provide that a certificate issued before the effective date of this amendment remains in effect for up to 24 calendar months after that date.

Although not treated in the notice, § 133.3(f) must be amended to make it clear that standard category rotorcraft may continue to be operated over congested areas. This is necessary, because § 133.45(e) as adopted prohibits restricted category rotorcraft external-load operation over a densely populated area, in a congested airway or near a busy airport where passenger transport operations are conducted.

No adverse comments were received on the proposed change to § 91.79(c) which would except rotorcraft used in Part 133 external-load operations from the minimum altitude requirements of that section. On further study, the FAA has determined that it is more appropriate to provide this relief through an amendment to § 133.31. A similar approach was taken with respect to agricultural operations in § 137.49, and keeps the number of cross-references to other Parts to a minimum in Part 133.

A proposed change to § 133.43(c) would apply the weight and center of gravity limitations of that section to rotorcraft type certificated in the restricted category under § 21.25. This is no longer necessary because § 133.43 was amended as part of the Airworthiness Review Program (see Amendment No. 133–5; 41 FR 55454; December 20, 1976).

No adverse comments were received on the proposed change to § 133.51. This amendment will confine the applicability of § 133.51 to a standard category rotorcraft. A separate airworthiness certificate is not necessary for rotorcraft certificated in the restricted category for the purpose of carrying external loads.

In addition to the major revisions to Part 133 discussed above, other minor or clarifying changes have been made that were not discussed in Notice 75–38. Section 133.15 is amended to include certificate renewal procedures similar to the procedures currently in that section for initial certification. Section 133.19 is amended to clarify the fact that the exclusive use prerequisite to Part 133 certification requires a rotocraft with either a valid standard category or a valid restricted category airworthiness certificate.

Interested persons have been afforded an opportunity to participate in the making of this rule, and due consideration has been given to all relevant matter presented.

The principal authors of this document are Clifford L. Weaver, Flight Standards Service, and Richard B. Elwell, Office of the Chief Counsel.

Accordingly, Parts 91 and 133 of the Federal Aviation Regulations (14 CFR Parts 91 and 133) are revised, effective August 10, 1977, to read as follows:

1. By amending § 91.39 by inserting a new paragraph (f) to read as follows:

§ 91.39 Restricted category civil aircraft: operating limitations.

* * * * *

(f) After December 9, 1977, this section does not apply to nonpassenger-carrying civil rotorcraft external-load operations conducted under Part 133 of this chapter.

2. By amending § 133.1 to read as follows:

§ 133.1 Applicability.

This part prescribes—

(a) Airworthiness certification rules for rotorcraft used in; and

(b) Operating and certification rules governing the conduct of; nonpassenger-carrying civil rotorcraft external-load operations in the United States by any person (other than as an air carrier). However, this part does not apply to operations conducted under Part 375 of this Title.

3. By amending § 133.11 to read as follows:

§ 133.11 Certificate required.

(a) No person subject to this part may conduct rotorcraft external-load operations within the United States without, or in violation of the terms of, a Rotorcraft External-Load Operator Certificate issued by the Administrator under § 133.17.

(b) A person who does not hold a Rotorcraft External-Load Operator Certificate on August 10, 1977, may conduct rotorcraft external-load operations not for compensation or hire under Part 91 of this chapter until December 9, 1977.

4. By amending § 133.13 to read as follows:

§ 133.13 Duration of certificate.

Unless sooner surrendered, suspended, or revoked, a Rotorcraft External-Load Operator Certificate expires at the end of the twenty-fourth month after the month in which it is issued or renewed, except that a certificate issued before August 10, 1977 expires on August 10, 1979.

5. By amending the heading and § 133.15 to read as follows:

§ 133.15 Application for certificate issuance or renewal.

Application for an original certificate or renewal of a certificate issued under this part is made on a form, and in a manner, prescribed by the Administrator. The form may be obtained from a General Aviation, Air Carrier, or Flight Standards District Office of the FAA. The completed application is sent to the district office that has jurisdiction over the area in which the applicant's home base of operation is located.

6. By amending § 133.19 by deleting the period at the end of paragraph (a)(2) and inserting a semicolon and the word "and" in place thereof, by revising paragraph (a)(1), and by adding a new paragraph (a)(3) to read as follows:

§ 133.19 Rotorcraft.

(a) The applicant must have the exclusive use of at least one rotorcraft that—

(1) Was type certificated under, and meets the requirements of, Part 27 or 29 of this chapter (but not necessarily with external-load-carrying attaching means installed), or of § 21.25 of this chapter for the special purpose of rotorcraft external-load operations;

* * * * *

(3) Has a valid standard or restricted category airworthiness certificate.

* * * * *

7. By amending § 133.31 by revising the introductory text of paragraph (f) and by adding a new paragraph (g) to read as follows:

§ 133.31 Operating rules.

* * * * *

(f) Notwithstanding any provisions of Part 91 of this chapter, the holder of a Rotorcraft External-Load Operator Certificate may (in rotorcraft-type certificated under, and meeting the requirements of, Part 27 or 29 of this chapter including the external-load attaching means) conduct rotorcraft external-load operations over congested areas if those operations are conducted without hazard to persons or property on the surface, and are conducted in compliance with the following: * * *

* * * * *

(g) Notwithstanding Part 91 of this chapter, and except as provided in § 133.45(e), the holder of a Rotorcraft External-Load Certificate may conduct external-load operations, including approaches, departures, and load positioning maneuvers necessary for the operation, below 500 feet above the surface and closer than 500 feet to persons, vessels, vehicles, and structures, if the operations are conducted without creating a hazard to persons or property on the surface.

8. By amending § 133.45 by adding a new paragraph (e) to read as follows:

§ 133.45 Operating limitations.

* * * * *

(e) No person may conduct an external-load operation under this Part with a rotorcraft type certificated in the restricted category under § 21.25 of this chapter over a densely populated area, in a congested airway, or near a busy airport where passenger transport operations are conducted.

9. By amending § 133.51 to read as follows:

§ 133.51 Airworthiness certification.

A Rotorcraft External-Load Operator Certificate is a current and valid airworthiness certificate for each rotorcraft (fitted with external-load attaching means) type certificated under Part 27 or 29 of this chapter and listed in that certificate, when the rotorcraft is being used in operations under this part or in operations incidental to those operations.

(Secs. 307, 313(a), 601, 603, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423 and 1427), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821, 11949, and OMB Circular A-107.

Issued in Washington, D.C. on May 3, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-13607 Filed 5-11-77;8:45 am]

federal register

THURSDAY, MAY 12, 1977

PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

BOARD OF CONTRACT APPEALS AND RULES OF PROCEDURE FOR HANDLING APPEALS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 20]

[Docket No. R-77-285]

BOARD OF CONTRACT APPEALS AND RULES OF PROCEDURE FOR HANDLING APPEALS

AGENCY: Board of Contract Appeals, HUD.

ACTION: Proposed Rule.

SUMMARY: This proposal would adopt, with appropriate changes for HUD's requirement, the Uniform Rules of Procedures for Boards of Contract Appeals drafted by the National Conference of Board of Contract Appeals Members. The changes to present rules are primarily editorial; however, certain sections have been rearranged for clarity and accuracy and to incorporate recent developments in the Board's organization.

DATES: Comments must be received on or before June 10, 1977.

ADDRESS: Send comments to: Rules Docket Clerk, Office of the Secretary, Room 10141, 451 7th Street, S.W., Washington, D.C. 20410. Comments will be available for public inspection at the same address.

FOR FURTHER INFORMATION CONTACT:

B. Paul Cotter, Jr., Administrative Judge, HUDBCA, Telephone 202-755-5571.

SUPPLEMENTARY INFORMATION: The Department proposes to adopt the following revision to 24 CFR Part 20, "Contract Appeals", in lieu of the provisions currently in effect for proceedings before the Department of Housing and Urban Development Board of Contract Appeals (40 FR 6491, February 12, 1975). Since the inception of the Board on August 26, 1974, and the promulgation of its rules in February 1975, three significant developments have occurred. First, the composition of the Board has expanded thereby eliminating the need for ad hoc members. Second, the Board has identified various problems characteristic of HUD contract appeals. Third, the National Conference of Board of Contract Appeals Members has drafted Uniform Rules of Procedure which were issued April 25, 1975, and were drawn from the cumulative experience of all Boards of Contract Appeals.

The Uniform Rules have been adopted with appropriate modifications to reflect the Board's experience in processing HUD contract appeals. Wherever possible the Uniform Rules have been modified to make them more understandable to the layman who elects to present his appeal to the Board himself.

In view of the expanded composition of the Board, the provision for designating ad hoc members has been eliminated from § 20.3. Board members are titled Administrative Judges in accordance with the Secretary's appointment certificate and to correct an omission in the original rules.

Section 20.4(b) of the existing regulation has been deleted as redundant.

For ease of reference and citation the rules of procedure format (formerly §§ 20.10 through 20.50) has been modified by deleting §§ 20.20 through 20.50 and including all the rules of procedure in sequentially numbered order under a revised § 20.10.

The following substantive changes have been made: (1) The reference to "OGC" has been eliminated from Rule 4 (formerly § 20.10(d)) as a matter more appropriate to internal administrative policy and to make clear that the appeal file is to be received by the Board within 30 days; (2) The Contracting Officer is now charged under Rule 4 (former § 20.10 (d)) with furnishing to appellant a copy of the appeal file documents with certain noted exceptions rather than just an index of those documents, thereby expediting the proceeding by facilitating a more complete statement of the claim in the complaint and eliminating the necessity for discovery of documents otherwise available; (3) Discovery and prehearing procedures have been expanded and revised; and (4) Two new sections, Rules 31 and 32, have been added to address the subjects of suspended appeals and dismissal for failure to prosecute.

The Department has determined that an Environmental Impact Statement is not required with respect to this proposed rule. A copy of the Environmental Finding of Inapplicability is available for inspection at the above address. The Department has also determined in accordance with OMB Circular A-107 that this proposal does not have an economic impact. A copy of the Economic Finding of Inapplicability is also available for inspection at the above address.

Accordingly, it is proposed to amend 24 CFR Part 20 to read as follows:

PART 20—CONTRACT APPEALS

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

§ 20.1 Scope of part.

This part establishes a Board of Contract Appeals, sets forth policies and procedures regarding matters to be considered by the Board, and prescribes the Rules of the Board.

§ 20.2 Establishment of Board.

There is hereby established in the Office of the Secretary the Housing and Urban Development Board of Contract Appeals ("the Board").

§ 20.3 Organization, membership and location of the Board.

(a) *Organization and membership.* The Board shall be comprised of a Chief Administrative Judge, who shall be Chairman, and such other Administrative Judges as may be appointed by the Secretary. The Board shall be staffed by support personnel as needed. All members of the Board shall be attorneys at law admitted to practice before the highest court of the District of Columbia or any state, commonwealth or territory of the United States. Contract appeals are assigned to a panel of at least two (2) members of the Board, except for the optional accelerated procedure set forth in Rule 14 of Subpart B of this Part 20, where a decision may be rendered by a single Administrative Judge.

(b) *Location.* The Board is located in Washington, D.C., and its mailing address is U.S. Department of Housing and Urban Development, Board of Contract Appeals, Room 7150, 451 7th Street SW., Washington, D.C. 20410.

§ 20.4 Jurisdiction and authority of the Board.

(a) *Contract Appeals.* The Board shall consider and determine appeals from decisions of Contracting Officers arising under contracts which contain provisions requiring the determination of appeals by the Secretary of Housing and Urban Development or the Secretary's duly authorized representative or board. The Board has authority to determine contract appeals falling within the scope of its jurisdiction as fully and finally as might the Secretary.

(b) *Other matters.* The Board shall have jurisdiction over other matters assigned to it by the Secretary. Determinations in other matters shall have the finality provided by applicable statute, rule or regulation.

(c) *Decisions on questions of law.* When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may, in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. If an appeal involves a claim which is not cognizable under the terms of the contract or applicable regulation, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(d) *Board powers.* The Board shall have all powers necessary and incident to the proper performance of its duties assigned herein. Subject to the approval of the Secretary, the Board shall adopt its own methods of procedure and rules for its conduct and for the preparation and prosecution of appeals.

(e) *Final decision.* In each case, the Board shall make a final decision which is just and is supported by the record of the case and the law. The decision of a majority of a panel constitutes the decision of the Board. The member or members assigned to consider an appeal have authority to act for the Board in all matters with respect to such appeal. No member may act for the Board or participate in a decision if he has participated directly in any aspect of the award or administration of the contract involved.

(f) *Subpoena power.* Pursuant to 5 U.S.C. 304, any Board member presiding over a contract appeal under § 20.4(a) may request the appropriate United States District Court for the issuance of subpoenas for witnesses or documents relating to that appeal.

§ 20.5 Procedure.

(a) *Rules.* Appeals referred to the Board are conducted in accordance with the rules of the Board set forth in Subpart B of this Part 20, unless otherwise provided by applicable statute or regulation. The provisions of the Administrative Procedure Act, 5 U.S.C. 551, et seq., as amended, shall not apply to contract appeals before 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 to secure a just and inexpensive determination of appeals without unnecessary delay. In any situation for which these rules make no provision, the Board may, in its discretion, conform the proceeding to the Rules of Civil Procedure for the United States District Courts.

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

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

§ 20.10 Rules.

These rules govern the procedure before the Department of Housing and Urban Development Board of Contract Appeals in all matters unless otherwise provided by applicable law or regulation. They shall be construed to secure the just, speedy, and inexpensive determination of every matter.

Preliminary Procedures

Rule 1. *How to Appeal a Contracting Officer's Decision*

Notice of an appeal must be in writing, addressed to the Secretary, and the original, together with two copies, should be filed with the Contracting Officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive, regulation or law.

Rule 2. *Contents of Notice of Appeal*

A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract by number, the headquarters, regional or area office cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the contractor making the appeal ("the appellant"), or by an officer of an appellant corporation or member of an appellant firm, or by any appellant's authorized representative or attorney. The complaint referred to in Rule 8 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.

Rule 3. *Forwarding of Appeals by the Contracting Officer*

When a notice of appeal in any form has been received by the Contracting Officer, he shall endorse thereon the date of mailing of the notice by the appellant or date of receipt, if otherwise conveyed, and within 10 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal, whether through the Contracting Officer or otherwise, the appellant, the Contracting Officer and Government ("respondent") counsel will be promptly notified of its receipt and docketing by the Board which will furnish the contractor with a copy of these rules.

Rule 4. *Preparation, Contents, Organization, Forwarding, and Status of Appeal File*

(a) *Duties of Contracting Officer.* Within 30 days of receipt of notice that an appeal has been docketed, the Contracting Officer shall file with the Board an appeal file consisting of all documents pertinent to the appeal, including:

(1) the Contracting Officer's decision and findings of fact from which the appeal is taken;

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

(3) All correspondence between the parties pertinent to the appeal, including the 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 pertinent.

Within the same time above specified, the Contracting Officer shall furnish the appellant a copy of each document he transmits to the Board, except (i) those described in subparagraph (a) (1), (2) and (3) above, as to which a list furnished appellant of all documents transmitted will suffice, and (ii) those described in subparagraph (d) below.

(b) *Duties of the Appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the Contracting Officer, the appellant may supplement the same by transmitting to the Board any documents not contained therein which it considers pertinent to the appeal and shall furnish two copies of such documents to the respondent's trial attorney.

(c) *Organization of Appeal.* Documents in the appeal file may be originals or legible facsimiles or authenticated copies thereof, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file. The first two documents in every appeal file shall be the Contracting Officer's final decision and the contract.

(d) *Lengthy Documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose an undue burden. 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 same 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 shall be, without further action by the parties, a part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or, in the event there is no hearing on the appeal, of settling the record. If objection to a document is made, the Board will rule upon its admissibility into the record as evidence in accordance with Rules 15 and 21, hereof.

Rule 5. *Service of Documents*

A copy of every written communication submitted to the Board shall be sent to every other party to the dispute. Such communications shall be sent by delivering in person or by mailing, properly addressed with postage prepaid, to the opposing party or, where the party is represented by counsel, to its counsel. Each communication with the Board shall be accompanied by a statement, signed by the originating party, saying when, how, and the name and address of the party to whom a copy of the communication was sent.

Rule 6. *Computation and Extension of Time Limits*

(a) *General.* 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. At the discretion of the Board, these time limitations may

be extended in appropriate circumstances for good cause shown.

(b) *Computation.* 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.

(c) *Extensions.* All requests for extensions of time shall be submitted to the Board in writing and shall state good cause therefor.

Rule 7. *Dismissal for Lack of Jurisdiction*

Any motion adressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits of the appeal and the motion. The Board shall have the right at any time and on its own motion 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.

Rule 8. *Pleadings and Motions*

(a) *Complaint.* 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, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. If the complaint is not received within the 30 days and, in the opinion of the Board, the issues before the Board are sufficiently defined, the appellant's claim and notice of appeal may be deemed to set forth its complaint, and the parties shall be so notified.

(b) *Answer.* Within 30 days from receipt of said complaint or a Rule 8(a) notice from the Board, respondent shall prepare and file with the Board an original and two copies of any answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer and shall set forth any affirmative defenses or counter-claims as appropriate. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the respondent, and the parties shall be so notified.

(c) *Motions.* (1) The Board may entertain any timely motion for an appropriate order. Application to the Board for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds therefore, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The Board may, on its own motion, initiate any action by notice to the parties.

(3) Unless otherwise specified by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt. The Board may require the presentation of briefs or arguments. The Board shall make an order on each motion that is appropriate and just to the parties and upon conditions that will promote efficiency in disposing of the appeal.

(4) Affidavits in support of motions shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion is made and supported as provided in this rule, a party opposing the motion who is represented by counsel may not rest upon the mere allegations or denials of his pleading; his response, by affidavits or as otherwise provided in this rule, must show that there is a genuine issue of fact or of law for decision. Should it appear from the affidavits of a party opposing the motion that for reasons stated he cannot present by affidavit facts essential to justify his opposition, the Board may deny the motion or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

Rule 9. *Amendments of Pleadings or Record*

(a) *Pleadings.* The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The application for such an order will suspend the time for responsive pleading. The Board may, in its discretion and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties.

(b) *Record.* When an issue within the proper scope of the appeal, but not raised by the pleadings or the documentation described in Rule 4, is tried by consent of the parties or by permission of the Board, the issue shall be treated in all respects as if it had been raised therein. In that event a motion to amend the pleadings to conform to the proof may be made but is not required. If evidence is objected to at a hearing on the ground that it is not within an issue raised by the pleadings or the Rule 4 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal but the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

Rule 10. *Hearing Election*

Upon receipt of respondent's answer or of the notice referred to in the last sentence of Rule 8(b), above, appellant shall advise the Board in writing whether he desires a hearing as prescribed in Rules 18 through 26, or whether, in the alternative, he elects to submit his case on the record without a hearing, as prescribed in Rule 13. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in Rule 14.

Rule 11. *Prehearing Briefs.*

Based on an examination of the documentation described in Rule 4, the pleadings, and a determination of whether the arguments and authorities addressed to the issues 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 Rule 10. In the absence of a Board requirement therefore, 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.

Rule 12. *Prehearing or Presubmission Order and Conference*

(a) *Prehearing Order.* Normally, in cases set for hearing, the Board will issue an order requiring that, prior to the day of the hearing, the parties will: (1) exchange a list of witnesses giving titles and a brief description of the subject matter of the testimony; (2) exchange proposed exhibits and prepare an additional set of such exhibits to be delivered to the board member at the beginning of the hearing; (3) exchange a list of expert witnesses with a summary of their qualifications and testimony; and (4) explore the possibilities of agreements on settlement, facts or issues not in dispute or ways of disposing of portions of the appeal. Any of the foregoing requirements may be waived by the Board if they conflict with Rule 14 governing the optional accelerated procedure or if they will cause undue hardship to the appellant.

(b) *Complex Case Order.* In appropriate cases, for example, where it appears that the issues are confused or complex, that the dollar amount involved is very large or that the hearing will be unduly long for any other reason and, also, in most cases involving quantum, the Board will issue a more comprehensive pretrial order. In addition to items (1), (2), (3) and (4) referenced in the preceding paragraph, this order will require the parties to (5) submit a stipulation of all facts not in dispute; and (6) attempt preparation of an agreed statement of factual and legal issues and, failing therein, submit separate statements. Where the issue of quantum will be heard, the Board may issue an additional pretrial order requiring the parties to state the monetary claim in detail with accounting schedules and explanations. These statements shall be exchanged, audits shall be permitted and audit reports shall be exchanged.

(c) *Conference.* Whether the case is to be submitted pursuant to Rule 13, or heard pursuant to Rules 18 through 26, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before an Administrative Judge of the Board for a conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses and the avoidance of similar cumulative evidence, if the case is to be heard;

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

(5) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be set forth in an appropriate order.

Rule 13. *Submission of Appeal Without a Hearing*

Either party may elect to waive a hearing and to submit his case upon the record before the Board, as settled pursuant to Rule 15. 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 submission to be supplemented by oral argument (transcribed if requested) and by briefs in accordance with Rule 24.

Rule 14. *Optional Accelerated Procedure*

(a) *Application.* In appeals involving $25,000 or less, either party may elect, in its notice of appeal, complaint, answer, or by separate correspondence or statement prior to

commencement of hearing or settlement of the record, to have the appeal processed under a shortened and accelerated procedure. For application of this rule the amount in controversy will be determined by the sum of the amounts claimed by either party against the other in the appeal proceeding. If no specific amount of claim is stated, a case will be considered to fall within this rule if the sum of the amounts which each party represents in writing that it could recover as a result of the Board decision favorable to it does not exceed $25,000. In addition, this optional accelerated procedure may be employed, at the discretion of the Board and regardless of the amount involved, for other reasons including, but not limited to financial hardship or location of appellant in an area of concentrated unemployment, underemployment, or substantial or persistent labor surplus. An accelerateed case shall be processed under this rule unless the other party objects and shows good cause why the substantive nature of the dispute requires processing under the Board's regular procedures and the Board sustains the objection. In cases proceeding under this rule, parties are encouraged, to the extent possible and consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

(b) *Decision.* Written decision by the Board in cases proceeding under this rule normally will be brief and contain summary findings of fact and conclusions only. The Board will endeavor to render its decision within 30 days after the appeal is ready for decision. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or a designated member. However in cases involving $5,000 or less where there has been a hearing, the single Administrative Judge presiding at the hearing may, in his discretion, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions and a decision of the appeal. In the latter instance, the Board will subsequently furnish the parties a typed copy of the oral decision for record and payment purposes and to establish the date from which the period for filing a motion for reconsideration under Rule 30 commences.

(c) *Applicable rules.* Except as modified herein, these rules otherwise apply to accelerated cases in all respects.

Rule 15. *Settling the Record*

(a) *Contents.* The record upon which the Board's decision will be rendered consists of the appeal file described in Rule 4 and, to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions and interrogatories and answers to interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically 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) *Time of.* 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) *Weight of the evidence.* 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.

Rule 16. *Discovery—Depositions*

(a) *Definition.* As used in these rules, the term "discovery" shall mean the methods described in this rule and Rule 17 whereby the appellant contractor or the respondent Government may require the other party to disclose the facts, documents, papers, things, and other information within that party's knowledge or possession prior to an oral hearing or a determination on the record.

(b) *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 which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, methods, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(c) *When Depositions Permitted.* After an appeal has been docketed and a complaint filed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, 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 purposes of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

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

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

(f) *Expenses.* Each party shall bear its own expenses associated with discovery, unless, in the discretion of the Board, the expenses shall be apportioned otherwise.

Rule 17. *Interrogatories to parties, admission of facts, production and inspection of documents*

(a) *General.* The scope and use of interrogatories to parties, admissions of facts and production and inspection of documents shall be controlled by Rule 16.

(b) *Interrogatories to Parties.* After an appeal has been ffied with the Board, a party may serve on the other party written questions to be answered separately in writing, signed under oath and returned within 30 days of receipt by the answering party. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted.

(c) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a written request for the admission of specified facts. Within 30 days after receipt of the request, the party served shall answer each requested fact or file objections thereto in writing. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission within the time specified.

(d) *Production and inspection of documents.* Upon motion of any party showing good cause therefore, and upon notice, the Board may order the other party to produce and permit the inspection or photographing of any specifically identified documents or objects, not privileged, which are shown by the moving party either to be relevant to the subject matter of the appeal or to be reasonably calculated to lead to the discovery of admissible evidence.

HEARINGS

Rule 18. *Where and When Held*

Hearings will ordinarily be held in Washington, D.C., except that upon timely request and for good cause shown, the Board may, in its discretion, set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. At the request of either party and for good cause shown, the Board may, in its discretion, advance a hearing.

Rule 19. *Notice of Hearings*

The parties shall be given at least fifteen (15) days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties and to the requirement for a just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties.

Rule 20. *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 Rule 13.

Rule 21. *Nature of Hearings*

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the Rules of Evidence for United States Courts and Magistrates, as amended, subject, however, to the sound discretion of the presiding member in supervising the extent and manner of presentation of such evidence. In general, admissibility will be decided on the grounds of relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the above rules of evidence, may be admitted in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be 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 in any case require evidence in addition to that offered by the parties.

Rule 22. *Examination of Witnesses*

Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member shall otherwise order. If the testimony of a witness is not given under oath, the Board shall warn 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 connection with any matter within the jurisdiction of any department or agency thereof.

Rule 23. *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.

Rule 24. *Posthearing Briefs*

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding member at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

Rule 25. *Transcript of Proceeding*

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by the Board.

Rule 26. *Withdrawal of Exhibits*

After a decision has become final the Board may, on its own motion or upon request and after notice to the other party, in its discretion, direct or 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 withdrawal.

REPRESENTATION

Rule 27. *The Appellant*

An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law admitted to practice before the highest court of the District of Columbia or any state, commonwealth or territory of the United States. An attorney representing an appellant shall file a written notice of appearance with the Board. The Board may in its discretion authorize the appearance of other designated individuals.

Rule 28. *The Respondent*

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. Whenever at any time it appears that the appellant and Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal. However if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

DECISIONS

Rule 29. *Decisions*

Decisions of the Board will be rendered in writing, and copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 15.

Rule 30. *Motion for Reconsideration*

A motion for reconsideration by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion and 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.

DISMISSALS

Rule 31. *Dismissal Without Prejudice*

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. In any case where the suspension has continued, or it appears in the discretion of the Board that it will continue, for a period in excess of one year, the Board may dismiss the appeal from its docket without prejudice to its restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years from the date of dismissal to reinstate any appeal dismissed without prejudice, the dismissal shall automatically be converted to a dismissal with prejudice without further action by the parties or the Board.

Rule 32. *Dismissal for Failure to Prosecute*

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 issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the Board may take such action as it deems reasonable and proper under the circumstances.

MISCELLANEOUS

Rule 33. *Ex Parte Communications with the Board*

Ex parte communications, that is, written or oral communications with the Board by or for one party only without notice to the other, shall not be permitted. No member of the Board or of 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.

Rule 34. *Sanctions*

If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal, including dismissal with prejudice.

Rule 35. *Remand from Court*

Whenever any matter is remanded to the Board from any court 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 in order to comply with the court's order. The Board will review the reports and enter special orders governing the handling of matters remanded to it for further proceedings by any court. To the extent the court's directive and time limitations will permit, such orders will conform to these rules.

(Section 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C. April 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-13514 Filed 5-11-77;8:45 am]

federal register

THURSDAY, MAY 12, 1977
PART IV

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

■

INTERPRETIVE RULINGS

Letters of Credit

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Letters of Credit

AGENCY: Comptroller of the Currency.

ACTION: Final interpretive ruling.

SUMMARY: This amendment revises 12 CFR 7.7016 to establish guidelines for the safe and sound issuance of letters of credit by national banks. It clarifies the language of the previous ruling. Clarification was deemed desirable because some national bank issuers of letters of credit, believing the five standards listed in the previous ruling to be mandatory, have refused to honor drafts drawn under their letters of credit on the ground that the instrument failed to meet the Comptroller's standards and was therefore not a "true letter of credit transaction." As revised, the ruling makes clear that, while national banks for safe and sound banking purposes should issue their letters of credit in conformity with the ruling's standards, the determination of a letter of credit's legality and whether it should be honored is governed solely by statutory law, such as the Uniform Commercial Code, or by convention, such as the Uniform Customs and Practice for Documentary Credits.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Ford Barrett, Assistant Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219, 202–447–1880.

SUPPLEMENTARY INFORMATION: On October 28, 1976, the Comptroller of the Currency published in the FEDERAL REGISTER (41 FR 47258) for comment a proposal to amend an interpretive ruling, 12 CFR 7.7016, which governs the issuance of letters of credit by national banks. This amendment is intended to clarify the ruling's purpose, which is to establish guidelines for the safe and sound issuance of letters of credit. As discussed in greater detail in the original FEDERAL REGISTER notice, the Comptroller believes that clarification is desirable because the purpose of the prior ruling occasionally has been misinterpreted.

Five comments were received in response to the Comptroller's proposed revision. One comment noted that the ruling's opening sentence states that a "national bank may issue letters of credit permissible under the Uniform Commercial Code and the Uniform Customs and Practice for Documentary Credits * * *." It was pointed out that the use of the word "and" could be construed as requiring all letters of credit to be subject to both the Uniform Commercial Code and the Uniform Customs, when in actual practice, many domestic letters of credit are subject only to the former. To resolve this problem, the Comptroller has replaced "and" with "or." As revised, the ruling's opening sentence permits national banks to issue letters of credit permissible under either the Uniform Commercial Code or the Uniform Customs.

Another comment expressed the view that the standard established by subsection (a), which states that each letter of credit should conspicuously state that it is a letter of credit or be conspicuously entitled as such, is unnecessary and perhaps in conflict with UCC 5–102(1)(a). That section, it was argued, provides that a credit issued by a bank is a letter of credit without labeling as such, so long as it requires "a documentary draft or a documentary demand for payment." Since virtually all bank credits are of the "documentary" type, the comment contended that the Comptroller's ruling would require labeling where the Uniform Commercial Code does not.

For a number of reasons, subsection (a) has been retained as originally proposed. First, the Comptroller believes that an undertaking which functions like a letter of credit should be labeled as such because proper labeling assists the bank and examiners in identifying outstanding commitments in the nature of letters of credit. The amount of standby letters of credit outstanding is a memorandum item which must be recorded quarterly on the Consolidated Report of Condition; when a bank labels some of its standby letters of credit as something other than "letter of credit," the probability of reporting an erroneous figure on the Consolidated Report of Condition increases. Second, the express letter of credit identification provides all parties with unambiguous notice of the body of law applicable to such documents.

A document labeled a letter of credit becomes subject without question to the provisions of Article 5 as set forth in UCC 5–102(1)(c); if the document is not labeled as a letter of credit and a dispute subsequently develops, an issue may arise whether Article 5 is applicable.[1] In view of the burdensome litigation which could arise on this point alone, the Comptroller believes it reasonable to require that documents in the nature of letters of credit be labeled as such. Third, the Comptroller disagrees with the suggestion that "virtually all" bank credits will remain of the so-called "documentary" type. As was pointed out in another comment, a growing number of standby letters of credit require only the presentation of a draft. Because of this growing practice of requiring only a draft unaccompanied by other documentation the language of subsection (d), which formerly referred to the presentation of "specific documents", has also been changed now to refer to the presentation of "a draft or other documents."

Another comment, referring to the requirement in subsection (e) that the bank's customer should have an unqualified obligation to reimburse the bank for payments made under the letter of credit, questioned whether the ruling intends for the obligation to exist at the time of the issuance of the letter of credit, with the result that the subsequent involvement of the customer in bankruptcy or other proceedings affecting creditors' rights would not jeopardize the letter of credit's validity. Without commenting on how a bank's letter of credit or its customer's obligation to repay would be treated in a subsequent bankruptcy proceeding involving the customer, the Comptroller believes that on its face subsection (e) is satisfied if the customer agrees at the time of the issuance of the letter of credit to make repayment for drafts drawn and paid thereunder. Accordingly, no change in the ruling is warranted by this concern.

Finally, one commentator asked that the Comptroller add the following new language at the end of the ruling's opening sentence: "* * * with the substantive rights and obligations thereunder to be governed by the law of the State, Territory or District where the bank is located." The reason given for adding this language is that there are legal principles in addition to the provisions of the Uniform Commercial Code and the Uniform Customs and Practice for Documentary Credits which may be applicable to standby letters of credit. As an example, this comment cites pending litigation involving a national bank which issued standby letters of credit on behalf of a land developer in favor of a county government to assure the construction of certain roads in extremely remote mountain subdivisions. The developer is now bankrupt and the issuing bank has declined to pay drafts drawn under the standby credits on the grounds that the roads will probably never be built, either by the county or anyone else, and therefore payment of the drafts would result in an unjust windfall to the county. With the addition of the proposed language, the Comptroller is informed, the courts would be encouraged to look beyond the UCC and the Uniform Customs to other principles and doctrines, such as the doctrine of unjust enrichment, to decide the equities in a letter of credit case.

The Comptroller has concluded that the suggested additional language is unnecessary. If required in a particular case, courts will undoubtedly exercise their inherent powers to fashion an equitable remedy whether or not the suggested additional language is added to the Comptroller's ruling. Indeed, one court, without the aid of this language, has felt compelled to limit the damages awarded in a letter of credit case to prevent unjust enrichment.[2]

[1] A case in point is *Barclays Bank D.C.O. v. Mercantile Nat'l Bank*, 481 F. 2d 1224, 1228–1230 (5th Cir. 1973), *cert. denied*, 414 U.S. 1139 (1974); see also *The Prudential Insurance Co. of America v. Marquette Nat'l Bank of Minneapolis*, 419 F. Supp. 734, 735 (D. Minn. 1976).

[2] *New York Life Ins. Co. v. Hartford Nat'l Bank & Trust Co.*, 19 U.C.C. Rep. Ser. 1377 (Conn. Super. Ct. of Hartford County 1975).

Moreover, the purpose of the Comptroller's ruling, as set forth above and in the original FEDERAL REGISTER notice, is not to create substantive standards for the guidance of the courts, but to establish principles to encourage the safe and sound issuance of letters of credit by national banks. To make this purpose abundantly clear, the words "As a matter of sound banking practice" have been added to the second sentence.

Ford Barrett, Assistant Chief Counsel, Comptroller of the Currency, was the principal author of this amendment. However, other personnel in the Comptroller's Office participated in developing the ruling, both on matters of substance and style.

The Comptroller of the Currency, therefore, amends 12 CFR Part 7 by revising § 7.7016 to read as follows:

§ 7.7016 Letters of credit.

A national bank may issue letters of credit permissible under the Uniform Commercial Code or the Uniform Customs and Practice for Documentary Credits to or on behalf of its customers. As a matter of sound banking practice, letters of credit should be issued in conformity with the following: (a) Each letter of credit should conspicuously state that it is a letter of credit or be conspicuously entitled as such; (b) the bank's undertaking should contain a specified expiration date or be for a definite term; (c) the bank's undertaking should be limited in amount; (d) the bank's obligation to pay should arise only upon the presentation of a draft or other documents as specified in the letter of credit, and the bank must not be called upon to determine questions of fact or law at issue between the account party and the beneficiary; (e) the bank's customer should have an unqualified obligation to reimburse the bank for payments made under the letter of credit.

Dated: May 5, 1977.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.77-13505 Filed 5-11-77;8:45 am]

federal register

THURSDAY, MAY 12, 1977

PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

SOCIAL SECURITY BENEFIT INCREASES

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SOCIAL SECURITY BENEFIT INCREASES

Cost-of-Living Increase in Benefits Under Titles II and XVI of the Social Security Act and in Income Limitations for Beneficiaries Under the Supplemental Security Income Program

I hereby determine and announce a cost-of-living increase of 5.9 percent in benefits under the Social Security Act (the Act), under title II effective with the month of June 1977 and under title XVI effective with the month of July 1977. This is pursuant to authority contained in section 215(i) of the Social Security Act (42 U.S.C. (415(i)), as amended by section 3 of Pub. L. 93–233, enacted December 31, 1973, and in section 1617 of the Social Security Act (42 U.S.C. 1382f).

The revised table of benefits following this notice is deemed to appear in section 215(a) of the Act. With respect to benefits for transitional insured persons aged 72 and over entitled under section 227 of the Act (42 U.S.C. 427) and for uninsured persons aged 72 and over entitled under section 228 of the Act (42 U.S.C. 428), the amounts $78.50 and $39.30 for a month are established and deemed to appear in sections 227 and 228, in lieu of the respective amounts of $74.10 and $37.10 that were established by the last cost-of-living increase. The additional amount of the supplemental security income benefit with respect to essential persons payable under section 211 of Pub. L. 93–66 is established in the amount of $1,068.00 for a year in lieu of the amount of $1,008.00 that was in effect under section 221(a)(1)(A) of the law as a result of the last cost-of-living increase.

Annual income limitations under the Supplemental Security Income Program for the aged, blind, and disabled, are established in the amounts of $2,133.60 and $3,200.40 in lieu of the respective amounts of $2,013.60 and $3,021.60 that were in effect under sections 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2) of the Act, as a result of the last cost-of-living increase. (The last cost-of-living increase in benefits under titles II and XVI of the Social Security Act and in income limitations for beneficiaries under the Supplemental Security Income Program herein referred to was published on May 14, 1976, at FR 19999.)

Automatic Benefit Increase Determination

Section 215(i) of the Social Security Act requires that, when certain conditions are met in the first calendar quarter of a year, the Secretary shall determine that a cost-of-living increase in benefits and income limitations is due. That section further specifies a formula which automatically determines the amount of any cost-of-living increase in benefits and income limitations, based on the Consumer Price Index reported by the Department of Labor.

Section 215(i)(2)(A) of the Act provides that the Secretary shall determine each year, beginning with 1975, whether there is a cost-of-living computation quarter in such year. If he so determines, he shall, effective with June of that year, increase benefits for individuals entitled under sections 227 and 228 of the Act, and shall increase the primary insurance amounts of all other individuals entitled to benefits under title II of the Act (excluding primary insurance amounts determined under section 215(a)(3)). The percentage of increase in benefits shall be equal to the percentage of increase by which the Consumer Price Index for the cost-of-living computation quarter exceeds the Index for the most recent prior base quarter or cost-of-living computation quarter.

Section 215(i)(1) of the Act defines a base quarter as a calendar quarter ending on March 31 in each year after 1974 or any other calendar quarter in which occurs the effective month of a general benefit increase. This subsection of the Act also defines a cost-of-living computation quarter as a base quarter in which the Consumer Price Index prepared by the Department of Labor exceeds by not less than 3 percent such Index in the later of (1) the last prior cost-of-living computation quarter or, or (2) the most recent calendar quarter in which a general benefit increase was effective; with the exception that there shall be no cost-of-living computation quarter in any calendar year if, in the year prior to such year, a law has been enacted providing a general benefit increase or if, in such prior year, such a general benefit increase becomes effective. Section 215(i)(1) of the Act further provides that the Consumer Price Index for a base quarter or a cost-of-living computation quarter shall be the arithmetical mean of such Index for the 3 months in such quarter.

The Consumer Price Index prepared by the Department of Labor for each month in the quarter ending March 31, 1977, was: for January 1977, 175.3; for February 1977, 177.1, for March 1977, 178.2. The arithmetical mean for this calendar quarter is 176.9. This result is compared to the last prior cost-of-living computation quarter, which was the quarter ending March 31, 1976. The Consumer Price Index prepared by the Department of Labor for each month in that quarter was: for January 1976, 166.7; for February 1976, 167.1, for March 1976, 167.5. The arithmetical mean for that calendar quarter was 167.1. The increase for the calendar quarter ending March 31, 1977, is 5.9 percent. Thus, since the percentage of increase in the Consumer Price Index from the calendar quarter ending March 31, 1976, to the calendar quarter ending March 31, 1977, is not less than 3 percent, the quarter ending March 31, 1977, is a cost-of-living computation quarter. Consequently, a cost-of-living benefit increase of 5.9 percent is effective for benefits under title II of the Act beginning June 1977.

Title II Benefits

Title II benefits are payable under the Federal old-age, survivors, and disability insurance program. Individuals entitled under such programs include insured workers, wives, husbands, children, widows, widowers, mothers, and parents.

In accordance with section 215(i)(2)(D)(iv) of the Act, the primary insurance amounts and the maximum family benefits shown in columns IV and V, respectively, of the revised benefit table set forth in this announcement were obtained by increasing by 5.9 percent the corresponding amounts shown in the benefit table heretofore established by the last cost-of-living increase and further extended, by the operation of section 215(i)(2)(D)(v), as a result of the increase in the contribution and benefit base determined in 1976 under section 230 of the Act and published on October 13, 1976, at 41 FR 44878. Section 227 of the Act provides limited benefits to a worker, who became age 72 before 1969 and was not insured under the usual requirements, and to his wife or widow. Such an individual has a transitional insured status. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The monthly benefit amounts of $74.10 and $37.10 heretofore established, for persons entitled under sections 227 and 228 of the Act, were increased by 5.9 percent to obtain the new amounts of $78.50 and $39.30, respectively.

Title XVI Benefits

Section 1617 of the Social Security Act provides that, whenever the benefits under title II are increased as a result of a determination made under section 215(i), the amounts in sections 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2) of the Social Security Act and in section 211(a)(1)(A) of Pub. L. 93–66, shall be increased, effective with months after the month in which the title II increase is effective, and that the percentage of such increase shall be the same as the percentage of increase by which the title II benefits are increased (and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20).

In accordance with section 1617, monthly Federal Supplemental Security Income (SSI) guarantees under the SSI program for the aged, blind, and disabled are increased effective with July 1977, by 5.9 percent. The benefits, under that program, other than income excluded under section 1612(b), of $2,013.60 and $3,021.60 heretofore established are increased by 5.9 percent to $2,133.60 and $3,200.40, respectively. The amount of $1,008.00 previously established as the amount of the additional supplemental security income benefit with respect to essential persons payable under section 211(a)(1)(A) of Pub. L. 93–66, is increased by 5.9 percent to obtain a new amount of $1,068.00.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802–5, and 13.807 Social Security Programs.)

Dated: May 5, 1977.

Joseph A. Califano, Jr.,

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JUNE 1977

This revised table was made pursuant to sec. 215(i)(2)(D) of the Social Security Act, as amended

(I)		(II)	(III)		(IV)	(V)
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for June 1976)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
.....	$16.20	$107.90	.....	$76	$114.30	$171.50
$16.21	16.84	109.60	$77	78	116.10	174.20
16.85	17.60	112.10	79	80	118.80	178.30
17.61	18.40	114.20	81	81	121.00	181.60
18.41	19.24	116.20	82	83	123.10	184.70
19.25	20.00	118.70	84	85	125.80	188.70
20.01	20.64	120.90	86	87	128.10	192.20
20.65	21.28	122.80	88	89	130.10	195.20
21.29	21.88	125.30	90	90	132.70	199.10
21.89	22.28	127.40	91	92	135.00	202.50
22.29	22.68	129.50	93	94	137.20	205.80
22.69	23.08	131.60	95	96	139.40	209.10
23.09	23.44	134.00	97	97	142.00	213.00
23.45	23.76	136.20	98	99	144.30	216.50
23.77	24.20	138.90	100	101	147.10	220.70
24.21	24.60	140.80	102	102	149.20	223.90
24.61	25.00	143.20	103	104	151.70	227.60
25.01	25.48	145.80	105	106	154.50	231.80
25.49	25.92	148.20	107	107	157.00	235.50
25.93	26.40	150.50	108	109	159.40	239.20
26.41	26.94	152.80	110	113	161.90	242.90
26.95	27.46	155.00	114	118	164.20	246.30
27.47	28.00	157.40	119	122	166.70	250.20
28.01	28.68	159.80	123	127	169.30	254.00
28.69	29.25	162.20	128	132	171.80	257.80
29.26	29.68	164.40	133	136	174.10	261.30
29.69	30.36	166.60	137	141	176.50	264.80
30.37	30.92	169.10	142	146	179.10	268.70
30.93	31.36	171.50	147	150	181.70	272.60
31.37	32.00	173.60	151	155	183.90	275.90
31.37	32.00	173.60	151	155	183.90	275.90
32.01	32.60	176.10	156	160	186.50	279.80
32.61	33.20	178.40	161	164	189.00	283.50
33.21	33.88	180.70	165	169	191.40	287.10
33.89	34.50	183.10	170	174	194.00	291.00
34.51	35.00	185.30	175	178	196.30	294.50
35.01	35.80	187.80	179	183	198.90	298.50
35.81	36.40	190.00	184	188	201.30	302.00
36.41	37.08	192.50	189	193	203.90	306.10
37.09	37.60	194.90	194	197	206.40	309.70
37.61	38.20	197.10	198	202	208.80	313.20
38.21	39.12	199.70	203	207	211.50	317.30
39.13	39.68	202.00	208	211	214.00	321.00
39.69	40.33	203.90	212	216	216.00	324.00
40.34	41.12	206.50	217	221	218.70	328.10
41.13	41.76	208.80	222	225	221.20	331.80
41.77	42.44	211.40	226	230	223.90	335.90
42.45	43.20	213.60	231	235	226.30	339.50
43.21	43.76	216.30	236	239	229.10	343.70
43.77	44.44	218.30	240	244	231.20	348.40
44.45	44.88	220.40	245	249	233.50	355.60
44.89	45.60	223.30	250	253	236.40	351.40
.....	.....	225.40	254	258	238.70	358.50
.....	.....	227.30	259	263	240.80	375.50
.....	.....	230.10	264	267	243.70	381.20
.....	.....	232.30	268	272	246.10	388.40
.....	.....	234.80	273	277	248.70	395.40
.....	.....	237.00	278	281	251.00	401.10
.....	.....	239.30	282	286	253.50	408.30
.....	.....	241.90	287	291	256.20	415.50
.....	.....	243.90	292	295	258.30	421.10
.....	.....	246.50	296	300	261.10	428.20
.....	.....	248.80	301	305	263.50	435.40
.....	.....	250.90	306	309	265.80	441.10
.....	.....	253.50	310	314	268.50	448.20
.....	.....	255.60	315	319	270.70	455.40
.....	.....	257.90	320	323	273.20	461.10
.....	.....	260.40	324	328	275.80	468.20
.....	.....	262.60	329	333	278.10	475.30
.....	.....	265.30	334	337	281.00	481.20
.....	.....	267.20	338	342	283.00	488.10
.....	.....	269.60	343	347	285.60	495.30
.....	.....	272.20	348	351	288.30	501.00
.....	.....	274.30	352	356	290.50	508.10
.....	.....	276.90	357	361	293.30	515.30
.....	.....	279.10	362	365	295.60	521.00

(I) (Primary insurance benefit under 1939 Act, as modified)		(II) (Primary insurance amount effective for June 1976)	(III) (Average monthly wage)		(IV) (Primary insurance amount)	(V) (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		281.30	366	370	297.90	528.10
		283.80	371	375	300.60	535.10
		286.20	376	379	303.10	541.10
		288.60	380	384	305.70	548.20
		290.70	385	389	307.90	555.20
		293.00	390	393	310.30	560.90
		295.50	394	398	313.00	568.10
		297.80	399	403	315.40	575.30
		300.40	404	407	318.20	580.80
		302.30	408	412	320.20	588.00
		304.50	413	417	322.50	595.10
		306.70	418	421	324.80	600.80
		309.10	422	426	327.40	607.90
		311.20	427	431	329.60	615.10
		313.10	432	436	331.60	622.20
		315.70	437	440	334.40	625.00
		317.70	441	445	336.50	628.80
		319.80	446	450	338.70	632.30
		322.20	451	454	341.30	635.00
		324.30	455	459	343.50	638.50
		326.50	460	464	345.80	642.00
		328.50	465	468	347.90	645.10
		331.10	469	473	350.70	648.60
		332.90	474	478	352.60	652.20
		335.10	479	482	354.90	655.10
		337.40	483	487	357.40	658.70
		339.60	488	492	359.70	662.30
		341.70	493	496	361.90	665.10
		344.10	497	501	364.50	668.60
		346.10	502	506	366.60	672.10
		348.30	507	510	368.90	675.10
		350.40	511	515	371.10	678.60
		352.80	516	520	373.70	682.30
		354.80	521	524	375.80	684.90
		357.00	525	529	378.10	688.60
		359.50	530	534	380.80	692.10
		361.40	535	538	382.80	695.00
		363.60	539	543	385.10	698.60
		366.00	544	548	387.60	702.10
		368.10	549	553	389.90	705.70
		370.20	554	558	392.10	707.80
		371.90	557	560	393.90	710.70
		374.00	561	563	396.10	712.90
		376.00	564	567	398.20	715.70
		378.00	568	570	400.10	717.80
		379.80	571	574	402.30	720.60
		381.80	575	577	404.40	722.90
		383.50	578	581	406.20	725.60
		385.60	582	584	408.40	727.80
		387.30	585	588	410.20	730.70
		389.60	589	591	412.60	732.80
		391.50	592	595	414.60	735.60
		393.40	596	598	416.70	737.60
		395.30	599	602	418.70	740.70
		397.20	603	605	420.70	742.80
		399.20	606	609	422.80	745.50
		401.20	610	612	424.90	747.80
		403.10	613	616	426.90	750.70
		405.00	617	620	428.90	753.50
		406.90	621	623	431.00	755.60
		408.80	624	627	433.00	758.50
		410.80	628	630	435.10	761.20
		412.70	631	634	437.10	764.90
		414.70	635	637	439.20	768.50
		416.80	638	641	441.40	772.20
		418.50	642	644	443.20	775.60
		420.50	645	648	445.40	779.40
		422.40	649	652	447.40	782.80
		423.60	653	656	448.60	785.00
		424.80	657	660	449.90	787.20
		426.30	661	665	451.50	790.10
		427.80	666	670	453.10	792.90
		429.40	671	675	454.80	795.60
		430.90	676	680	456.40	798.50
		432.40	681	685	458.00	801.40
		434.10	686	690	459.80	804.10
		435.50	691	695	461.20	807.10
		437.00	696	700	462.80	809.90
		438.60	701	705	464.50	812.70
		440.10	706	710	466.10	815.50
		441.60	711	715	467.70	818.30
		443.20	716	720	469.40	821.20
		444.70	721	725	471.00	824.00
		446.20	726	730	472.60	826.90

(I) (Primary insurance benefit under 1939 Act, as modified)		(II) (Primary insurance amount effective for June 1976)	(III) (Average monthly wage)		(IV) (Primary insurance amount)	(V) (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		447.70	731	735	474.20	829.80
		449.30	736	740	475.90	832.50
		450.80	741	745	477.40	835.50
		452.20	746	750	478.90	838.20
		453.60	751	755	480.40	840.70
		454.90	756	760	481.80	843.00
		456.20	761	765	483.20	845.40
		457.50	766	770	484.50	847.80
		458.70	771	775	485.80	850.10
		460.00	776	780	487.20	852.40
		461.30	781	785	488.60	854.80
		462.50	786	790	489.80	857.10
		463.70	791	795	491.10	859.50
		465.00	796	800	492.50	861.90
		466.40	801	805	494.00	864.30
		467.70	806	810	495.30	866.60
		469.00	811	815	496.70	869.10
		470.20	816	820	498.00	871.30
		471.50	821	825	499.40	873.80
		472.80	826	830	500.70	876.10
		474.00	831	835	502.00	878.50
		475.20	836	840	503.30	880.80
		476.50	841	845	504.70	883.30
		477.80	846	850	506.00	885.40
		479.20	851	855	507.50	887.90
		480.40	856	860	508.80	890.20
		481.70	861	865	510.20	892.60
		483.00	866	870	511.50	895.00
		484.30	871	875	512.90	897.30
		485.40	876	880	514.10	899.70
		486.70	881	885	515.50	902.10
		488.00	886	890	516.80	904.40
		489.30	891	895	518.20	907.00
		490.60	896	900	519.60	909.20
		491.90	901	905	521.00	911.60
		493.20	906	910	522.30	914.00
		494.50	911	915	523.70	916.40
		495.80	916	920	525.10	918.50
		496.90	921	925	526.30	921.10
		498.20	926	930	527.60	923.30
		499.50	931	935	529.00	925.70
		500.80	936	940	530.40	928.10
		502.00	941	945	531.70	930.50
		503.30	946	950	533.00	932.80
		504.70	951	955	534.50	935.30
		506.00	956	960	535.90	937.60
		507.30	961	965	537.30	939.90
		508.40	966	970	538.40	942.30
		509.70	971	975	539.80	944.70
		511.00	976	980	541.20	946.90
		512.30	981	985	542.60	949.30
		513.50	986	990	543.80	951.70
		514.80	991	995	545.20	954.10
		516.10	996	1000	546.60	956.40
		517.20	1001	1005	547.80	958.40
		518.30	1006	1010	548.90	960.70
		519.50	1011	1015	550.20	962.70
		520.70	1016	1020	551.50	965.00
		521.80	1021	1025	552.60	967.00
		522.90	1026	1030	553.80	969.20
		524.10	1031	1035	555.10	971.30
		525.20	1036	1040	556.20	973.40
		526.40	1041	1045	557.50	975.60
		527.60	1046	1050	558.80	977.70
		528.60	1051	1055	559.80	979.70
		529.80	1056	1060	561.10	982.00
		531.00	1061	1065	562.40	984.00
		532.20	1066	1070	563.60	986.30
		533.30	1071	1075	564.80	988.30
		534.40	1076	1080	566.00	990.50
		535.60	1081	1085	567.30	992.50
		536.70	1086	1090	568.40	994.70
		537.90	1091	1095	569.70	996.90
		539.10	1096	1100	571.00	999.00
		540.10	1101	1105	572.00	1001.00
		541.30	1106	1110	573.30	1003.20
		542.50	1111	1115	574.60	1005.30
		543.60	1116	1120	575.70	1007.60
		544.80	1121	1125	577.00	1009.60
		545.90	1126	1130	578.20	1011.80
		547.10	1131	1135	579.40	1013.80
		548.20	1136	1140	580.60	1016.10
		549.40	1141	1145	581.90	1018.20
		550.60	1146	1150	583.10	1020.30
		551.60	1151	1155	584.20	1022.30
		552.80	1156	1160	585.50	1024.30
		554.00	1161	1165	586.70	1026.60
		555.10	1166	1170	587.90	1028.90
		556.30	1171	1175	589.20	1030.90

(I) (Primary insurance benefit under 1939 Act, as modified)		(II) (Primary insurance amount effective for June 1976)	(III) (Average monthly wage)		(IV) (Primary insurance amount)	(V) (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		557.40	1176	1180	590.30	1033.00
		558.40	1181	1185	591.40	1034.90
		559.50	1186	1190	592.60	1036.90
		560.60	1191	1195	593.70	1038.90
		561.60	1196	1200	594.80	1040.90
		562.70	1201	1205	595.90	1042.80
		563.80	1206	1210	597.10	1044.90
		564.80	1211	1215	598.20	1046.80
		565.90	1216	1220	599.30	1048.80
		566.90	1221	1225	600.40	1050.70
		568.00	1226	1230	601.60	1052.70
		569.10	1231	1235	602.70	1054.60
		570.10	1236	1240	603.80	1056.70
		571.20	1241	1245	605.00	1058.60
		572.30	1246	1250	606.10	1060.60
		573.30	1251	1255	607.20	1062.50
		574.40	1256	1260	608.30	1064.60
		575.50	1261	1265	609.50	1066.50
		576.50	1266	1270	610.60	1068.50
		577.60	1271	1275	611.70	1070.40
		578.60	1276	1280	612.80	1072.40
		579.60	1281	1285	613.80	1074.20
		580.60	1286	1290	614.90	1076.10
		581.60	1291	1295	616.00	1077.90
		582.60	1296	1300	617.00	1079.80
		583.60	1301	1305	618.10	1081.60
		584.60	1306	1310	619.10	1083.50
		585.60	1311	1315	620.20	1085.30
		586.60	1316	1320	621.30	1087.20
		587.60	1321	1325	622.30	1089.00
		588.60	1326	1330	623.40	1090.90
		589.60	1331	1335	624.40	1092.70
		590.60	1336	1340	625.50	1094.60
		591.60	1341	1345	626.60	1096.40
		592.60	1346	1350	627.60	1098.30
		593.60	1351	1355	628.70	1100.10
		594.60	1356	1360	629.70	1102.00
		595.60	1361	1365	630.80	1103.80
		596.60	1366	1370	631.80	1105.80
		597.60	1371	1375	632.90	1107.60

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federal register

THURSDAY, MAY 12, 1977

PART VI

CIVIL AERONAUTICS BOARD

■

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of CAB Form 41 Schedules

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-324; Docket 30852; Dated: May 5, 1977]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of CAB Form 41 Schedules Relating to Transactions With Affiliates and Nontransport Divisions

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to amend the Board's Uniform System of Accounts and Reports prescribed for Certificated Air Carriers. The notice proposes: (1) The combination of two report schedules, one dealing with carrier accounts with associated companies and nontransport divisions and another dealing with air carrier investments, into a single schedule to be filed annually; (2) the modification of the format of another schedule which deals with the reporting of air carrier transactions with associated companies and nontransport divisions; (3) the addition of a requirement for carriers to disclose income tax allocation procedures used in filing consolidated returns; and (4) the elimination of a requirement to establish a separate set of books for nontransport leasing operations. This proposal was developed as a part of the Board's on-going effort to reduce and improve air carrier reporting whenever possible.

DATES: Comments by June 13, 1977.

ADDRESSES: Comments should be sent to Docket 30852, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, University Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond Kurlander, Director, Bureau of Accounts and Statistics, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: In ER-707, adopted September 22, 1971, the Board established the need to monitor transactions between air carriers and members of affiliated groups by citing the rapid growth of nontransport activities being conducted by certificated air carriers and their affiliates during the preceding decade and the need to avoid practices of activity intermingling which could impair the integrity of the regulated activity. There still exists a need to monitor such transactions and thereby accomplish the objectives outlined in that rule. However, we have come to the conclusion that improvements could be made in the Board's existing reporting requirements in this area.

During 1976, an extensive review of carrier reporting of transactions with affiliates and nontransport divisions was conducted with a view toward improving the quality of reporting for such transactions in CAB Form 41 schedules and correcting and earlier reporting inconsistencies which surfaced during the course of the review. Six carriers were selected for on-site review: Braniff Airways, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., North Central Airlines, Inc., Piedmont Aviation, Inc., and Trans World Airlines, Inc. As the result of informal discussions of their interpretations of existing reporting requirements and suggestions for improvements, all six carriers contributed to the development of the changes now proposed, particularly with respect to Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies."

In order to improve the reporting which relates to such transactions and accomplish reporting reductions, where appropriate, the Board is hereby proposing to amend Part 241 of the Economic Regulations by: (1) combining quarterly Schedule B-4(b), "Accounts with Subsidiaries, Other Associated Companies and Nontransport Divisions," with annual Schedule B-41, "Investments Held by, or for the Account of, Respondent" and making the resulting new schedule an annual filing; (2) modifying the format and reporting instructions for Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies"; (3) adding a new accounting plan, CAB Form AP-16, to disclose income tax allocation procedures; and (4) eliminating the need to establish a separate accounting system for leasing operations pursuant to Section 1-6 of Part 241.

COMBINATION OF SCHEDULE B-4(B) AND SCHEDULE B-41

The combination of Schedule B-4(b) and Schedule B-41 would eliminate the need to file quarterly B-4(b) schedules. This would relieve carriers from providing duplicative information for the fourth quarter of each calendar year when both schedules were filed and eliminate the need to provide information during the other three quarters which, in essence, reflected nothing more than account balances. It is believed that the reporting on the new Schedule B-41, "Investments held by, or for the Account of, Respondent; Including Nontransport Divisions," shown in Exhibit A, when coupled with the revisions contemplated for Schedule B-44 would provide more informative data on the nature, volume, and impact of transactions betwen the regulated entity and members of the affiliated group, including nontransport divisions.

The proposed Schedule B-41 would provide separate captions for reporting investments in associated companies, other than associated companies, and nontransport divisions. The caption for "Other Investments" has been included because the reporting of all investments of the air carrier is required by Section 407(b) of the Federal Aviation Act of 1958, as amended (the Act). The term "Other Investments" would apply to investments by the air carrier in persons or firms which fall short of the 5 percent capital ownership requirement for "Associated Companies" as they are defined in Part 241. Generally speaking, the reporting for "Other Investments" would be limited to general disclosures relating to the investment, such as the balance of receivables, balance of payables, the amount of the dividend or interest income during the year, the type of security (common or preferred) and so forth. Basically, this is the same information which has been reported for "Other than Associated Companies" on the current Schedule B-41. It does not represent, therefore, any additional reporting burden.

MODIFICATION OF SCHEDULE B-44

Turning now to Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies," attention should be focused on the fact that the proposed changes will completely revise the format of the schedule. The first change relates to the manner in which the report is filed. The current instructions require the schedule to be filed on two separate sheets, one sheet for reporting resources acquired by the air carrier and another for resources disposed of by the air carrier. In contrast, the proposed rule would eliminate the need to file two separate sheets each time because the proposed schedule is designed to accommodate both increases and decreases in carrier resources and, in addition, provide separate captions for dealing with dividends and income tax transactions. This leads to the second major change, which occurs in the arrangement of the schedule.

The Schedule B-44 we are proposing would be entitled "Transactions Between Carrier and Affiliates—Annual Summary." As previously indicated, the new schedule would be divided into four major sections entitled "Increase in Carrier's Resources," "Decrease in Carrier's Resources," "Dividends," and "Income Tax Transactions." Within each of these sections, lines are provided for reporting, in separate columns for each affiliate, the aggregate amounts of specific types of transactions which occurred during the calendar year.

For the purposes of this schedule, the term resources shall encompass assets such as cash, receivables (in certain instances where they have been transferred in settlement of an amount owed or as a donation), securities, investments, equipment, supplies, buildings and land. The term "operational services" shall include the expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations.

In the section entitled "Increase in Carrier's Resources," the first line, entitled "Cash received by Carrier from Affiliate," would be used to report cash remittances by an affiliate to the air carrier. The second line, entitled "Contribution of Capital by Affiliate to the Carrier," would be used to record any increase in the carrier's assets without

regard to the type of asset which results from the purchase of additional securities or any other contribution of capital as it would be reflected through an increase in the equity section of the carrier's balance sheet. The third line, entitled "Credit Adjustments to Affiliate's Retained Earnings," would be used to record the increase in the carrier's investment in the affiliate by virtue of adjustments to the opening balance of retained earnings of affiliates.[1] The fourth, fifth and sixth lines also reflect increases in carrier assets, except receivables as earlier noted, or an inflow of benefits to the carrier such as the provision of operational services or pledging of resources.

The second major section, entitled "Decrease in Carrier's Resources" would reflect the decreases in carrier assets and any outflow of benefits from the carrier. To a certain extent, the two sections will work in conjunction with one another with respect to certain transactions; however, they are not expected to balance each other in an accounting sense. For example, in a case where an air carrier sells a building to an affiliate, the carrier would report as a decrease in resources, the net book value of the building sold. The net book value of the building would be reported on the line entitled "Property, Equipment, and Other Assets Disposed of by Carrier to Affiliate." If cash were remitted in payment, the carrier would concurrently report the cash received as an increase in resources. If, on the other hand, a long-term receivable is recorded by the carrier, the carrier would not report the receivable as an incease in resources. Instead, the carrier would only report an increase in resources when cash was remitted by the affiliate in settlement of the receivable. Similarly, in the case of operational services rendered by the carrier, the operational services would be reflected as a decrease in carrier resources while the establishment of an amount receivable would not be regarded as an increase in carrier resources. The increase in carrier resources, for the puposes of this report, would be reported only when and to the extent cash or some other asset is remitted to the carrier in settlement of the amount owed.

The third section of the schedule, entitled "Dividends" has been included so as to identify the portion of increases and decreases in carrier resources which are attributable to dividends and to facilitate distinctions between dividends declared by investor controlled companies, which are accounted for under the equity method, and dividends declared by other affiliates.

The fourth section of the schedule, entitled "Income Tax Transactions" has been included so as to separately identify different aspects of income tax transactions. The first two lines of this section deal with the income taxes billed back and forth between the carrier and affiliates. Since these amounts billed represent receivables, they would not be included as an increase or decrease in carrier resources until remittance has been made, whereupon they would be reported as either "Cash Received by Carrier from Affiliate" or "Cash Disbursed by Carrier to Affiliate." The remainder of this section deals with the flow between the carrier and affiliates of investment tax credits and net operating losses. The aggregate amounts shown on these last four lines of the section will not be reflected elsewhere on the schedule.

Finally, in connection with this schedule, there would be a requirement for carriers who have transactions such as contributions of capital or adjustments directly to the retained earnings of affiliates to explain, both as to nature and amount, the transactions which gave rise to the aggregate amount reported when the amount reported exceeds one percent of the carrier's net stockholder equity. This requirement would apply to contributions of capital by the carrier to the affiliate or vice versa and debit or credit adjustments to the retained earnings of affiliates. The one percent criterion would apply to the amount reported for each affiliate independently and not an aggregate decrease computed by adding the decreases for a series of affiliates.

Accounting Plan

During the review of carrier reports, it was noted that income tax allocation procedures played a significant role in the flow of benefits between members of an affiliated group and that the Board does not now review the tax allocation procedures used in the preparation of consolidated income tax returns. From a regulatory standpoint, the ultimate result of a tax allocation procedure can be as detrimental to the air transportation service provided as an inequitable allocation procedure for revenues and expenses. In view of the fact that the Board does not now receive a description of tax allocation procedures, the proposed rule would require carriers to file an accounting plan, AP-16, "Procedures for Allocating Income Taxes Among Transport Entities, Affiliates and Nontransport Divisions," which covers income tax allocations in essentially the same manner that accounting plans are now filed on allocations of other revenues and expenses on AP-1, "Procedures for Assigning or Prorating Profit and Loss Items between Accounting Entities."

Separate Accounting Records and Leasing Operations

It should be noted that the proposed rule would make one significant change in connection with "Nontransport Divisions." It would amend Section 1-6, "Accounting Entities" to make it clear that the requirement to establish a separate set of accounting records shall not apply to leasing activities. Recently, the Financial Accounting Standards Board (FASB) issued its Statement of Financial Accounting Standards No. 13 which prescribed detailed accounting practices for lease transactions. In another rulemaking proceeding, the Board has proposed to incorporate the new standards of accounting for leases promulgated by the FASB into Part 241. While a detailed discussion of these new accounting standards is well beyond the scope of this proposal, it will suffice to make specific mention of the fact that investments in assets for the purpose of leasing to others will not be accounted for through Account 1520, "Advances to Associated Companies." Instead, net investments in such leases will be accounted for in other accounts classified with or near other receivables. Leases of short-term duration will be accounted for in the nonoperating property and equipment category.

Effective Date

If adopted, we would expect to make this rule effective June 30, 1977, so that the carriers would not be required to file Schedule B-4(b) for the quarter ended June 30, 1977.

Proposed Rule

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend Section 03—Definitions for Purposes of This System of Accounts and Reports, so as to delete the definition "Subsidiary company" and have section 03 read in pertinent part:

Section 03—Definitions for Purposes of This System of Accounts and Reports

* * * * *

Stops, technical—Aircraft landings made for purposes other than enplaning or deplaning traffic. For purposes of identifying reporting entities, landings, made for stopover passengers are regarded as technical stops.

Tariff, published— * * *

* * * * *

2. Amend Section 1—Introduction to System of Accounts and Reports, to specifically exclude leasing operations by having Section 1-6, "Accounting Entities," read in pertinent part:

Sec. 1-6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(i) or 32(h), as applicable, and for each separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports, each nontransport entity conducting an activity which is not related to the air carrier's transport activities and each transport-related activity or group of activities qualifying as a nontransport venture pursuant to paragraph (b) of this section, whether or not formally organized within a distinct organizational

[1] This situation is not expected to occur frequently. Nevertheless, our review of carrier reporting indicated that such adjustments have occurred in the past and it is our intention to provide a means to report such adjustments on the proposed schedule when they do occur.

unit, shall be treated as a separately operated organizational division; except that the provisions of this paragraph and paragraph (b) shall not apply to leasing activities.

* * * * *

3. Amend Section 2—General Accounting Policies, as follows:

A. By amending Section 2–1, "Basis of Allocation between Entities" by changing paragraph (c) so that section 2–1 reads in pertinent part as follows:

Sec. 2–1 Basis of allocation of entities.

* * * * *

(c) For purposes of this section, investments by the air carrier used in common by the regulated air carrier and those transport-related revenue services defined as separate nontransport ventures under section 1–6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominantly uses those investments. Where the entity of predominant use is a nontransport venture, the air carrier shall reflect the investment in account 1520, "Advances to Associated Companies."

* * * * *

B. By amending Section 2–18—Transactions between members of an affiliated group, to eliminate the word incidental from paragraph (c) so that section 2–18 reads in pertinent part as follows:

Sec. 2–18 Transactions between members of an affiliated group.

* * * * *

(c) The cost, less all associated valuation allowance accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable transport-related revenues or capital gain income accounts, as appropriate. Where such services and assets are reflected in tariffs filed with the Board or in price lists held out to the general public, the associated revenues shall be recorded at the rates, fares or charges contained therein in the appropriate transport-related services, capital gains or air transport income accounts. Where no tariff or prevailing price list is applicable, the associated revenue shall be recorded at the higher of cost or estimated fair market value of the asset or service involved. Any difference between the revenue so recorded and the agreed consideration to the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment-Credit or subaccount 89.1 Intercompany Transaction Adjustment-Debit.

* * * * *

4. Amend Section 5—Balance Sheet Account Groupings, so that paragraph (b) of Section 5–2, "Investments and Special Funds" reads in pertinent part as follows:

Sec. 5–2 Investments and special funds.

* * * * *

(b) Investments in investor controlled companies shall be recorded at cost plus the equity in undistributed earnings or losses since acquisition, except as provided in paragraph (c) of this section. Investments in all other associated or nonassociated companies shall be recorded at cost, except as provided in paragraph (c).

* * * * *

5. Amend Section 22—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to eliminate Schedule B–4(b) and change the title of Schedules B–41 and B–44 so that the list reads in pertinent part as follows:

B. By revising paragraph (d) to include a new subparagraph (16) and other editorial changes so that paragraph (d) will read in pertinent part as follows:

Section 22—General Reporting Instructions

(a) * * *

List of Schedules in CAB Form 41 Report

Schedule No.	Schedule title	Filing frequency
*	*	*
B–3	Statement of changes in stockholder's equity.	Annually.
B–4	Allowance for uncollectible accounts.	Quarterly.
B–5	Property and equipment	Do.
*	*	*
B–14	Summary of property obtained under long-term lease.	Do.
B–41	Investments held by, or for the account of, respondent; including nontransport divisions.	Annually
B–43	Inventory of airframes and aircraft engines.	Do.
B–44	Transactions between air carriers and affiliates, annual summary.	Do.
B–46	Long-term and short-term nontrade debt.	Do.
*	*	*

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP–1 through AP–16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2–1.

* * * * *

(10) Procedures for assigning or prorating expenses between transport operations and transport-related operations as prescribed by section 10–7100 or 11–7100.

* * * * *

(14) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associate to investor controlled company or vice versa and adjustments as prescribed in sections 6–1510.1 and 6–1510.2.

* * * * *

(16) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions and members of an affiliated group in accordance with section 2–18(d).

6. Amend Section 23—Certification of Balance Sheet Elements, as follows:

A. By revising the reporting instructions applicable to Schedule B–4 to delete the portion of the instructions dealing with accounts with investor controlled companies, other associated companies and nontransport divisions, so that the new title and instructions for this schedule read, in their entirety, as follows:

Schedule B–4—Allowance for Uncollectible Accounts

(a) This schedule shall be filed by all route air carriers.

(b) Each allowance for uncollectible accounts shall be separately identified in the indicated section of this schedule. Columns 1 and 2 shall reflect the account number and description of the asset against which each allowance is provided. The balance of each allowance as at the end of each quarter shall agree with the corresponding amount reported on Schedule B–1 Balance Sheet.

B. By revising paragraph (c) to exclude the term subsidiaries from the instructions applicable to Schedule B–12 so that the instructions for Schedule B–12 read in pertinent part:

Schedule B–12—Statement of Changes in Financial Position

* * * * *

(c) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P–1.1 or Schedule P–1.2 shall be increased by expenses not requiring working capital in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. * * *

* * * * *

C. By revising the instructions to Schedule B–41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–41—Investments Held By, or For the Account Of, Respondent; Including Nontransport Divisions

(a) This schedule shall be filed by all route air carriers.

(b) The data shall be grouped and separately subtotaled according to: investments in investor controlled com-

panies (account 1510.1); investments in other associated companies (account 1510.2); investments in nontransport divisions and other investments; and notes and accounts receivable due to the air carrier.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4, "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5, "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies and other investments.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the names and addresses of persons in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Than Associated Companies" nor for "Nontransport Divisions" listed in column 1.

D. By revising the instructions to Schedule B–44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–44—Transactions Between Air Carrier and Affiliates—Annual Summary

(a) This schedule shall be filed by all route air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) Increase in carrier's resources, (2) decrease in carrier's resaources, (3) dividends, and (4) income tax transactions.

(c) For the purposes of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1–6 and the term resources shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land; and operational services. Net income from investor controlled companies and organizational divisions, as defined in section 1–6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1–6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected and contingent assets, shall not be considered resources for the purposes of reporting on Schedule B–44.

(d) Within the transaction groupings for resources, the term operational services shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to the carriers," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2995 of Schedule B–1, "Balance Sheet," shall be described as to the nature of the transaction and the amount involved on Schedule P–2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts

which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Credit to Investment and Debit to Account 8100)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of by sale to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by the carrier in the interest of affiliate" carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid. Cash and property received or disbursed shall also be reported as cash remittances or property acquired or disposed of in the resource increase or resource decrease transaction groupings. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided at the top of columns 2 through 7, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carriers and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

(p) In the column headings, carriers shall insert the name of the separately incorporated affiliate or identify that the entity being reported as a nontransport division.

7. Amend Section 32—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to change the title of Schedules B–41 and B–44 so that the list reads in pertinent part as follows:

B. By revising paragraph (d) to include a new subparagraph (15) and other editorial changes so that paragraph (d) will read in pertinent part as follows:

Section 32—General Reporting Instructions

(a) * * *

List of schedules in CAB Form 41 report

Schedule No.	Schedule title	Filing frequency
*	*	*
B–14	Summary of property obtained under long-term lease.	Do.
B–41	Investments held by, or for the account of, respondent; including nontransport divisions.	Annually.
B–43	Inventory of airframes and aircraft engines.	Do.
B–44	Transactions between air carriers and affiliates, annual summary.	Do.
B–46	Long-term and short-term nontrade debt.	Do.
*	*	*

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements or professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP–1 through AP–16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2–1.

* * * * *

(13) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associate to investor controlled company or vice versa and adjustments as prescribed in sections 6–1510.1 and 6–1510.2.

* * * * *

(15) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions and members of an affiliated group in accordance with section 2–18(d).

8. Amend Section 33—Certification of Balance Sheet Element, as follows:

A. By revising paragraph (b) to exclude the term subsidiaries from the instructions applicable to Schedule B–12 so that the instructions for Schedule B–12 read in pertinent part:

Schedule B–12—Statement of Changes in Financial Position

* * * * *

(b) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P–1.1 or Schedule P–1.2 shall be increased by expenses not requiring working capital in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. * * *

* * * * *

B. By revising the instructions to Schedule B–41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–41—Investments held by, or for the Account of, Respondent; Including Nontransport Divisions

(a) This schedule shall be filed by all supplemental air carriers.

(b) The data shall be grouped and separately subtotaled according to: Investments in investor controlled companies (account 1510.1); investments in other associated companies (account 1510.2); investments in nontransport divisions and other investments; and notes and accounts receivable due to the air carrier.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show

the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4, "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5, "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies and other investments.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the names and addresses of persons in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Than Associated Companies" nor for "Nontransport Divisions" listed in column 1.

C. By revising the instructions to Schedule B–44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–44—Transactions Between Air Carrier and Affiliates—Annual Summary

(a) This schedule shall be filed by all supplemental air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) Increase in carrier's resources, (2) decrease in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purposes of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1–6 and the term resources shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land; and operational services. Net income from investor controlled companies and organizational divisions, as defined in section 1–6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1–6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected and contingent assets, shall not be considered resources for the purposes of reporting on Schedule B–44.

(d) Within the transaction groupings for resources, the term operational services shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, knowhow, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) Cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to the carrier," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2295 of Schedule B–1, "Balance Sheet," shall be described as to the nature of the transaction and the amount involved on Schedule P–2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Credit to Investment and Debit to Account 8100)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of by sale to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraph (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by carrier in the interest of affiliate" carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid. Cash and property received or disbursed shall also be reported as cash remittances or property acquired or disposed of in the resource increase or resource decrease transaction groupings. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided at the top of columns 3 through 7, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

(p) In the column headings, carriers shall insert the name of the separately incorporated affiliate or identify that the entity being reported as a nontransport division.

9. Amend CAB Form 41 schedules to reflect the foregoing changes in accounting as shown in Exhibits A, B, and C, and add a new accounting plan form AP-16 as shown in Exhibit D.

REQUEST FOR COMMENTS

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 766; 49 U.S.C. 1324, 1377.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

EXHIBIT A

INVESTMENTS HELD BY, OR FOR THE ACCOUNT OF, RESPONDENT: INCLUDING NONTRANSPORT DIVISIONS

(PURSUANT TO SECTION 401(h) OF THE FEDERAL AVIATION ACT)

AIR CARRIER

As at December 31, 19

COMPANY OR DIVISION (1)	1200, 1270 Notes and Accounts Receivable (2)	1535 Advances (3)	1510 Investments at Cost (4)	1530 Equity in Undistributed Earnings (5)	1550 Other Investments and Receivables (6)	LIABILITY ACCOUNTS: 2010, 2021, 2025 Notes & Accounts Payable (7)	2210, 2240 Advances (8)	Amount of Dividend or Interest Income During Year (9)	OTHER DATA ON INVESTMENTS 1/: Type of Security (10)	Holder of Record (Yes or No) (11)	Number of Shares or Debt Principal Amount (12)	Per Cent of Total Issue Outstanding (13)
ASSOCIATED COMPANIES (Grouped and separately subtotaled according to investor controlled companies and other associated companies.)												
OTHER INVESTMENTS (Columns 2, 3, 4, 5, 8 and 13 are not applicable to this group)												
NONTRANSPORT DIVISIONS												

1/ In the event the answer is "no" in column 11, supply the names and address of persons in whose name the interest is held in the space provided below.

Schedule B-41

CAB Form 41

EXHIBIT 6

TRANSACTIONS BETWEEN AIR CARRIER AND AFFILIATES ANNUAL SUMMARY	AIR CARRIER 12 months ended

Line No.	NATURE OF TRANSACTION (1)	AGGREGATE ANNUAL AMOUNTS OF TRANSACTIONS WITH CARRIER AFFILIATE (2)	AFFILIATE (3)	AFFILIATE (4)	AFFILIATE (5)	AFFILIATE (6)	AFFILIATE (7)	AFFILIATE (8)	AFFILIATE (9)
	INCREASE IN CARRIER'S RESOURCES								
1	Cash received by carrier from affiliate								
2	Contribution of capital by affiliate to carrier*								
3	Credit adjustments to affiliate's retained earnings*								
4	Net income of affiliate for year (Debit to Investment and Credit to Account 8100)								
5	Operational services performed by affiliate for carrier								
6	Property, equipment, and other assets acquired by carrier from affiliate								
7	Resources pledged by affiliate, in the interest of carrier								
	DECREASE IN CARRIER'S RESOURCES								
8	Cash disbursed by carrier to affiliate								
9	Contribution of capital by carrier to affiliate*								
10	Debit adjustments to affiliate's retained earnings*								
11	Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)								
12	Operational services performed by carrier for affiliate								
13	Property, equipment and other assets disposed of by carrier to affiliate								
14	Resources pledged by carrier, in the interest of affiliate								
	DIVIDENDS								
15a	Paid by affiliate to carrier - from Investor Controlled Companies								
15b	Paid by affiliate to carrier - from Other Affiliates								
16	Paid by carrier to affiliate								
	INCOME TAX TRANSACTIONS								
17	Income taxes billed by carrier to affiliate								
18	Income taxes billed by affiliate to carrier								
19	Investment tax credits transferred by carrier to affiliate								
20	Investment tax credits transferred by affiliate to carrier								
21	Net operating losses transferred by carrier to affiliate								
22	Net operating losses transferred by affiliate to carrier								

Explanation of basis used in valuing property dividends:

Schedule B-44

* Any transaction reported on these lines which exceeds one percent of the carrier's net stockholder shall be described as to nature and amount on Schedule P-2, Notes to Income Statement.

CAB Form 41

Budget Bureau No. 39-R0032

EXHIBIT C

STATUS OF ACCOUNTING PLANS REQUIRED TO BE FILED		Air Carrier _____ 12 Months Ended June 30, 19____			
				Latest Plan	
Statement No.	Subject (1)	Applicable Section (2)	Was Plan Revised This Period (Yes or No) (3)	Date Filed (4)	Effective Date (5)
1	Assigning or prorating profit and loss items between operating entities	2-1(b)			
2	Retroactive adjustments made to conform accounts with mail rate actions	2-4(d)			
3	Self-insurance reserves	2-13(c)			
4	Equalization reserves	2-13(d)			
5	Depreciation	2-14(b)			
6	Airframe and aircraft engine overhauls and airworthiness reserves	5-4(g)(8)			
7	Amortization of developmental and preoperating costs and other intangibles	5-5(b) 6-1870(c) 6-1890			
8	Obsolescence and deterioration reserves — expendable parts	6-1311(d)			
9	Unearned transportation revenue	2-17(b) 6-2160(d)			
10	Assigning or prorating expenses between incidental services and transport operations	9-4600(d)			
11	Application of maintenance burden	10-5300(c) 11-5300(c) 24-P-6(f)			
12	Computation of available seat-miles and available ton-miles	25-T-3(g) 35-T-3.1			
13	Accrued vacation liability	6-2120(c)			
14	Accounting for investments in subsidiary and other associated companies, including change in status from associated to subsidiary company, or vice versa, and adjustments in investment accounts.	6-1510(c)			
15	Accounting for pension plan	2-19 13-57			
16	Allocating income taxes	2-18(d)			

NOTE: If not applicable, use the abbreviation "NA"

SCHEDULE A-1

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EXHIBIT D
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Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19____

Requirement for filing: Section 22(d) [ ] or 32(d) [ ] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART A

Please check applicable box:

Carrier files Federal income tax returns as an independent company ☐

Income of carrier reported to Internal Revenue Service as a part of a consolidated tax return ☐

If carrier reports income as a part of a consolidated tax return, please list below the affiliated companies that are included in the consolidated tax return:

Describe allocation procedures used to allocate income taxes among the affiliated group: (In the event there is a written tax allocation agreement, the furnishing of a copy of such agreement will be considered response)

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _____

TITLE: _____

DATE: _____

CAB Form AP-16a

EXHIBIT D
Page 2 of 2

Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19____

Requirement for filing: Section 22(d) [ ] or 32(d) [ ] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART B

Describe allocation procedures used to allocate income taxes among the transport entities of the air carrier and its nontransport divisions in compliance with section 2-18(d).

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _____

TITLE: _____

DATE: _____

CAB Form AP-16b

[FR Doc.77-13457 Filed 5-11-77;8:45 am]