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5-18-77
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FEDERAL REGISTER

WEDNESDAY, MAY 18, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for July are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Dean Smith, 202-523-5282.

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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
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	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.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—The President

Executive Order 11985 • May 13, 1977

United States Foreign Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to reflect certain organizational changes for the control and direction of intelligence activities, it is hereby ordered as follows:

SECTION 1. The Table of Contents of Executive Order No. 11905 of February 18, 1976, is amended by deleting "Committee on Foreign Intelligence" and "Operations Advisory Group" and substituting therefor "NSC Policy Review Committee" and "NSC Special Coordination Committee" respectively.

SEC. 2. Section 2(d) of Executive Order No. 11905 is amended by deleting "Committee on Foreign Intelligence" and substituting therefor "NSC Policy Review Committee".

SEC. 3. Section 3(a) of Executive Order No. 11905 is amended by adding thereto the following new paragraph:

"(4) The National Security Council Policy Review Committee and the National Security Council Special Coordination Committee assist the National Security Council in the performance of its functions. Membership on each committee includes, in addition to the National Security Council, such members as the President may direct. In addition to the performance of policy development and coordination responsibilities which may be assigned by the President, these committees are responsible for those duties specified by this Order.".

SEC. 4. Section 3(b) of Executive Order No. 11905 is amended as follows:

(a) In the title, delete *"Committee on Foreign Intelligence"* and substitute therefor *"NSC Policy Review Committee"*.

(b) Delete paragraph (1) and substitute the following new paragraph:

"(1) Whenever the NSC Policy Review Committee, hereinafter referred to as the PRC, performs the functions assigned in this Order, the PRC shall be chaired by the Director of Central Intelligence, hereinafter referred to as the DCI, and include as members the Deputy Secretary of Defense, the Deputy Assistant to the President for National Security Affairs, and a senior representative of the Secretary of State.".

(c) In paragraphs (2) through (5), delete "CFI" wherever it occurs and substitute therefor "PRC".

(d) Insert in paragraph (3) immediately after the word "supported" the words "in its functions under this Order".

(e) Insert in paragraph (4) immediately after the last word the words "under this Order".

(f) Insert in paragraph (5) immediately before the word "may" the words "under this Order".

SEC. 5. Section 3(c) of Executive Order No. 11905 is amended as follows:

(a) In the title, delete *"The Operations Advisory Group"* and substitute therefor *"NSC Special Coordination Committee"*.

(b) Delete paragraph (1) and substitute therefor the following new paragraph:

"(1) Whenever the NSC Special Coordination Committee, hereinafter referred to as the SCC, meets to perform the functions assigned in this Order, the SCC shall be chaired by the Assistant to the President for National Security Affairs and include the Secretary of State, Secretary of Defense, Director of Central Intelligence and Chairman of the Joint Chiefs of Staff, as members, and the Attorney General and Director of the Office of Management and Budget, as observers.".

(c) In paragraphs (2) through (4), delete "Operations Group" wherever it occurs and substitute therefor "SCC".

SEC. 6. Section 6 of Executive Order No. 11905 is amended as follows:

(a) In paragraph (1) of subsection (a), delete "The members of the Oversight Board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969).".

(b) Delete subsection (f).

SEC. 7. Section 8(a) of Executive Order No. 11905 is amended by deleting the words "Committee on Foreign Intelligence" and substituting therefor "PRC".

Jimmy Carter

THE WHITE HOUSE,
May 13, 1977.

[FR Doc.77-14283 Filed 5-16-77;3:53 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg Z; FC-0060, FC-0061, FC-0062, FC-0063, FC-0064, and FC-0065]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitation stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

[FC-0060]

§ 226.4(c) and § 226.401—Immediate termination of service is not required as a sine qua non for preserving the characterization of a charge as being one for late payment.

APRIL 4, 1977.

This is in response to your letter of * * *, wherein you requested an official staff interpretation of § 226.4(c) of Regulation Z. Your client retails residential fuel oil, and some of his customers are on account with payment due upon receipt of the invoice. Of those customers, there are a few who are slow to pay their bills, and your client wishes to impose a late charge in order to insure prompt payment. Your client does not want the imposition of a late charge to be construed as a finance charge under § 226.4 of the regulation.

In your letter, and in subsequent telephone conversations with staff, you express concern that a literal reading of Board Interpretation of § 226.401 would require your client in all cases to terminate service to customers who are intermittently delinquent in paying their bills. Since your client provides fuel oil for home heating, he views such a requirement as particularly harsh in its effect.

Public Information Letters 797 and 838 discuss application of § 226.4(c) to situations where there is a credit plan already in effect. There staff advised that if a creditor continues to assess late payment charges without treating an account as being delinquent and the customer as being in default on an obligation, then that creditor is imposing a finance and not a late payment charge.

Because the distinction between "late payment" and "finance" charge depends upon the unique interplay of facts in each individual case, staff cannot provide an exhaustive list of factual criteria. Two generalized statements, however, can be made. A charge assessed for late payment is distinguishable from a finance charge in that it is imposed for an actual and unanticipated event; and the ultimate evidence of the nature of a charge imposed is an objective viewing of the course of conduct between your client and each of his customers.

Insofar as the particular requirements of Interpretation § 226.401 are concerned, staff is of the opinion that the interpretation does not require termination of your client's service to his intermittently delinquent customers as a sine qua non to meeting the test set forth in § 226.4(c). On the other hand, continued imposition of late charges on a delinquent account, without taking positive action to collect the account, including eventual termination of additional credit privileges, would result in viewing such late charges as finance charges.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts outlined herein. We trust that it will be of assistance to you.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0061]

§ 226.6(a)—The term "finance charge" must be more conspicuous only if it is required to be used, but it is permissible to make it more conspicuous whenever it appears.

APRIL 4, 1977.

This is in reply to your letter of * * *, requesting two official staff interpretations of Regulation Z. Staff can issue an official interpretation only on the first question you raised since its views on the second question are not such as might be relied upon by a creditor. An unofficial staff interpretation will be issued on your second question and sent to you separately.

Your question concerns the requirement in § 226.6(a) that the term "finance charge" be printed more conspicuously than other required terminology. You point out that the words "finance charge" are frequently used in several different parts of a disclosure statement, e.g., when stating the amount of the total finance charge, in describing the components of the finance charge, in the phrase "prepaid finance charge," and in stating the date on which the finance charge begins to accrue. You ask whether Regulation Z requires that the words "finance charge" be printed more conspicuously whenever they appear anywhere on the disclosure statement.

It is staff's opinion that this is not necessary. Section 226.6(a) states that the term "finance charge" must appear more conspicuously than other required terminology only when that specific term is required to be used by the regulation. Consequently, the "more conspicuous" requirement does not apply whenever the words "finance charge" are used, but only where this term is required to be used. On the other hand, it is staff's position that it is permissible to make the words "finance charge" more conspicuous whenever they appear in a disclosure statement if the creditor so desires.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts as presented herein. It appears that your client may be a creditor subject to the law of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act you may wish to contact the office of the State Banking Commissioner for their views.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0062]

§ 226.4(a) and § 226.7(b)—Creditor may exclude checking account service charge in computing finance charge on customer's overdraft credit line unless specified minimum balance is so small that service charge is imposed primarily on credit customers.

APRIL 11, 1977.

This is in response to your letter of * * *, in which you request an official staff interpretation of Regulation Z, Truth in Lending, regarding treatment of a checking account service charge for purposes of §§ 226.4(a)(2) and 226.7(b)(1)(iv).

Your client, a bank, currently imposes a service charge on a checking account if the customer's balance falls below a specified minimum ($100 at present) at any time during the monthly cycle. This service charge consists of a flat maintenance charge component plus a charge for each item handled during that cycle.

The bank proposes to offer customers a credit line or cash reserve feature in the nature of an overdraft account in connection with their checking accounts. Under this plan, an extension of credit to the customer's overdraft account will be triggered when the customer overdraws the account. (The fi-

nance charge to be imposed with respect to the credit line will be appropriately disclosed and is not the subject of your inquiry.)

You explain that a transaction which overdraws an account, and thereby activates the overdraft feature, will be subject to the checking account service charge, since in an overdraft situation the customer's account will be under the specified $100 minimum balance. Such a transaction, however, may or may not be the one that caused the account to drop below the specified minimum.

The illustrations you give indicate that, in any event, imposition and computation of the checking account service charge will be on the same basis whether or not an account has the cash reserve feature, and whether or not that feature is utilized.

Sections 226.4(a)(2) and 226.7(b)(1)(iv) of the regulation require that service charges be included in the finance charge to the extent that they exceed any charges the customer is required to pay when a checking account is not being used to extend credit. It is the staff's opinion that, on the facts described, the checking account service charge is not a finance charge and that the bank may properly exclude it in calculating the finance charge on the overdraft account pursuant to footnote 2 under § 226.4(a)(2) and footnote 9 under § 226.7(b)(1)(iv). In our view, the fact that a particular transaction that activates the credit line is subject to a checking account service charge and that it may have caused the account to fall below the specified minimum balance is irrelevant for the purpose of determining whether the charge is part of the finance charge.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) of the regulation. It is limited in its application to the facts outlined above, and, in this connection, staff would caution that if, in a situation such as you describe, the specified minimum balance is so small as to result in the imposition of a checking account service charge primarily on credit customers who utilize the overdraft feature, such a charge could be considered a finance charge. Under such circumstances, failure to disclose it as such could be considered an attempt to circumvent or evade the requirements of the Act and Regulation Z.

I note that your client is a creditor subject to the laws of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act, I suggest that you contact the office of Mr. Lawrence Connell, Jr., Bank Commissioner of the State of Connecticut, for his views.

I trust this letter is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0063]

§ 226.7(b)—Cumulative daily posting of amounts of transactions and payments on an overdraft checking plan is permissible. No reference to a particular check or portion of a check causing the extension of credit or payment need be made.

APRIL 14, 1977.

This is in reply to your letter of * * *, in which you requested staff's opinion with respect to certain disclosure requirements under Regulation Z in connection with an ovedraft checking plan offered by your client.

The plan involves the use of a combined checking and overdraft account statement. A running balance is kept on a cumulative basis and shown for each date that it changes in a column labeled "Balance." If a customer's checking account is overdrawn, the balance will be shown in conjunction with the designation "OD." If the account is not overdrawn, then the balance will not have that designation following it, which will indicate that the balance in the account is the customer's own funds rather than funds which were generated by an extension of credit. Other columns on the face of the statement show (1) the "Date," (2) "Deposits," and (3) "Checks and Credit Transactions." Any checks written on the account are first attributed to drawing down any of the customer's own funds which may currently be in the account. If such funds are insufficient, the transactions will be debited to the account in a fashion so that the "Balance" column will reflect an overdraft credit balance. Conversely, any deposits to the customer's account are credited first as payment of any overdraft balance in the "Balance" column. Any amount of any deposit in excess of the amount of the overdraft balance is treated as a normal deposit to the checking account.

Each check drawn on the account is reflected by its posting date and amount. Whenever one or more checks are posted to the account on any given day and the cumulative total of the check(s) results in the account being overdrawn or in an increase of a previous overdraft balance, the statement reflects the total credit extended that day by a separate designation of the amount of the increase in the overdraft balance labeled as a "credit advance." This is done on a cumulative daily basis rather than by attempting to attribute any particular portion of the credit advance to any portion of any individual instrument which is entered on that day. Likewise, any portion of a deposit which pays an overdraft balance, in part or in whole, is separately itemized as to amount and labeled as a "payment" without reference to the instrument by which the deposit is made.

For example, if on day 1 the "Balance" column shows a $50 overdraft and on day 2 the customer, without writing any other checks on the account, deposits $150 in the account, the entire deposit will be shown as $150. In addition, a separate itemization of a $50 "payment" would be shown without reference to the instrument by which the deposit is made, and the balance column would reflect the fact that the account now contains $100 of the customer's own funds. If, on the other hand, the balance in the account on day 1 were to be shown as $100 and on day 2 checks for $75, $50, and $25 were entered in the account, each of those checks would be itemized and a separate listing of a $50 "credit advance" would be shown along with an adjustment in the balance column to reflect a $50 overdraft. However, no attempt is made to apportion the credit advance to any particular one of the three checks or to any particular portion of all three checks.

You ask whether this method of disclosing payments and credit transactions on a daily cumulative basis, rather than by reference to the particular instruments entered on any particular day, is sufficient for purposes of § 226.7(b)(1)(iii) and § 226.7(k)(3)(ii). You are concerned that our earlier Public Information Letter 1091 infers that those sections require that the credit advances and payments be referenced to a particular check or instrument.

In staff's view, Public Information Letter 1091 was not intended to mean that reflecting payments and credit transactions for overdraft checking accounts, such as the one described in your letter, by reference to a particular document or instrument is the only way of complying with § 226.7(b)(1)(iii) and § 226.7(k)(3)(ii). That letter only reflected the provisions of Regulation Z requiring that payments and transactions on an open end credit account be itemized and identified with respect to their amounts. In staff's view, the system that you propose, which contemplates a cumulative debiting of credit advances and crediting of payments on a daily basis, when, in conjunction with the date, the amount of the payment or extension of credit is separately stated and labeled as a "payment" or "credit advance," is sufficient for compliance with these sections.

It should be noted, however, that this opinion should not be read to indicate staff's approval or disapproval of such a system of disclosing and identifying transactions and payments for any type of open end credit system other than the overdraft plan discussed herein.

This is an official staff interpretation issued under § 226.1(d)(3) of Regulation Z and limited in its application to the facts outlined herein. We trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0064]

§ 226.9(a) and § 226.902—Although a customer in a credit transaction that is secured by property in a decedent's estate may later inherit real property from the estate and use it as a principal residence, the right of rescission is inapplicable because, for purposes of § 226.9, that customer does not own the property when the transaction is consummated.

APRIL 14, 1977.

This will respond to your letter of * * *, in which you request an official staff interpretation of § 226.9 of Regulation Z. You ask whether the rescission provisions of § 226.9 apply when a customer, who may have an interest in a decedent's estate and expect to use real property in the estate as a primary residence, contracts for funeral services for a deceased. You explain that under the law of your State the estate property, including the real property, is subject to a claim for funeral expenses that may be perfected by a judgment lien without a due process hearing.

Section 226.9 of Regulation Z requires the delivery of the notice of opportunity to rescind: * * * in the case of any credit transaction in which a security interest is or will be retained in any real property which is used or is expected to be used as the principal residence of the customer * * *

In order to be entitled to exercise the right to rescind a person must be both an owner of the property and a party to the transaction (see Interpretation § 226.902 of Regulation Z). Accordingly, if the property to be used as a primary residence is held by the estate, the customer is not entitled to rescind the transaction under § 226.9 since the property is not owned by the customer when the transaction is consummated.

On the other hand, if the property has passed to the customer without having passed through the estate (e.g., by right of survivorship), we assume no lien attaches since the property is not part of the decedent's estate. The right of rescission is therefore not applicable to this situation.

A third possible situation arises when the property was co-owned with the deceased, so that part of the property is owned by the customer and part is in the estate when the transaction is consummated. Under these circumstances we assume the lien attaches only to the interest in the property formerly held by the deceased. The customer is not entitled to rescind this transaction under § 226.9 as the lien does not apply to the customer's interest in the property.

This is an official staff interpretation of Regulation Z, issued in accordance with

§ 226.1(d)(3) of the regulation and limited in its application to the facts set forth herein. I trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0065]

§ 226.7(f)—Change of name of credit card and addition of check guarantee feature to card do not constitute changes in terms which would require giving of notice under § 226.7(f) to current cardholders or to applicant who applies for card with one name and no check guarantee but is issued card with another name with check guarantee.

Terms referred to in § 226.7(f) are those terms required to be disclosed in open end credit accounts pursuant to § 226.7(a).

§ 226.13(a)—Issuance of a credit card bearing one name and having a check guarantee feature in response to an application for a credit card bearing another name and having no check guarantee feature does not constitute issuance of an unsolicited credit card in violation of § 226.13(a)(1).

APRIL 14, 1977.

[This is in response to your letter of * * *, requesting an official staff interpretation of Regulation Z. Your questions concern the application of § 226.7 (a) and (f) and § 226.13 (a) to a course of action which [the Bank] proposes to follow with regard to the issuance of credit cards with a check guarantee feature.

Your letter indicates that the Bank proposes to issue to all of its cardholders a new card under [a new] name [ ] in substitution for their existing [cards]. The new [ ] card will have all of the features of the old [card]. Additionally, it is proposed that the [new] card will have a check guarantee feature not available on the [old card]. The new [ ] cards will contain a logo [ ] which will indicate the check guarantee feature. The check guarantee program would permit a merchant who honors the [check guarantee] feature of the card to have any check presented by a [new] cardholder guaranteed by communicating with the Bank and obtaining an authorization number. The bank would ascertain whether the customer was a current cardholder in good standing. No verification as to the amount of funds in the customer's checking, savings or other account would be made. In the event that the check was later returned to the merchant unpaid, the merchant would be permitted to return the check to the Bank, and the Bank would pay it and debit the amount of the check to the customer's credit card account. The debit would appear as a cash advance on the customer's credit card periodic statement, and the usual finance charge would be applied.

In addition to issuing the new [ ] cards with the check guarantee feature to the Bank's present [ ] cardholders, you propose to issue [new] cards with the [ ] check guarantee feature to all qualified individuals who apply for a credit card. Although your are supplying your [old card] merchants with [new card] application forms and instructing them to destroy the old [ ] applications, you believe that the Bank will continue to receive [the old card] applications for a period of time. You indicate that the [old card] applications contain the required Truth in Lending disclosures in the [old card] Agreement printed on a tear-off panel at the bottom of the application. You further state that this portion of the application is being changed to reflect the [new] name and the addition of the [ ] check guarantee feature. Of course, these changes do not appear on the old [ ] applications.

You first ask whether changes in the cardholder agreement reflecting the [ ] name change and addition of the check guarantee feature constitute a "change in terms" so as to trigger the 15-day notice requirement of § 226.7(f) with respect to the Bank's current [card] customers. It is staff's position that the "terms" referred to in § 226.7(f) are those terms required to be disclosed in open end credit accounts pursuant to § 226.7(a). Since neither the name under which a credit card is issued nor the addition of the check guarantee feature of the [new] card, as you describe it, are disclosures required by § 226.7(a), neither a change in the name of your card nor the addition of the check guarantee feature to the card necessitate the change in terms disclosure specified by § 226.7(f).

Secondly, you ask whether the disclosure of a change in terms required by § 226.7(f) must be sent to individuals who apply for a new credit card using an obsolete [ ] application which makes no mention of the [new] name or the [ ] check guarantee feature of the [new] card. Inasmuch as neither the change of name of your credit card from [the old name] to [new name] nor the addition of the check guarantee feature to the card constitutes a change in terms within the meaning of § 226.7(f), no disclosure of these factors to new credit card applicants is necessary under § 226.7(f). However, you suggest that you could mail a revised credit card agreement detailing these features at the time the [new] card is sent to the new cardholder. While such a procedure is not required by the regulation when disclosure of all relevant terms is made with the application, staff believes that it would be beneficial for a new customer who has inadvertently submitted [an old card] application to receive an explanation of why a [new] card is being issued to him or her and a description of the check guarantee feature of the [new] card.

Your final question is whether the issuance of a [new] card with the [ ] check guarantee feature to persons who submit obsolete [ ] applications containing no mention of the check guarantee capacity of the card constitutes an unsolicited issuance of a credit card in violation of § 226.13(a)(1). In Official Staff Interpretation FC-0012, staff took the position that the issuance of a new [ ] card with the [ ] check guarantee feature to current [ ] cardholders in substitution for their [old cards] which do not have the check guarantee capacity would not constitute an unsolicited issuance of a credit card as prohibited by § 226.13(a)(2). Similarly, staff is of the opinion that the issuance of a [new] card with the check guarantee feature, in response to an application for an [old card], which makes no mention of a check guarantee feature, does not constitute the issuance of an unsolicited credit card in violation of § 226.13(a)(1). The fact that the card actually issued has an additional feature not available on the card for which the customer applied does not render the card an unsolicited credit card. Of course, § 226.7 (a) requires that, before the first transaction is made on the new account, the Bank must provide the cardholder with a disclosure of all the terms applicable to any credit plan which that feature may access.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts as stated herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-14092 Filed 5-17-77;8:45 am]

[Reg Z; FC-0066, FC-0067, FC-0068, FC-0069, FC-0070, and FC-0071]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

[FC-0066]

§ 226.6(c) and § 226.15(b)—Separate schedule of depreciation values for leased vehicle is not required to be disclosed, but may be disclosed as additional information.

§ 226.6(f) and § 226.15(b)(15)—Disclosure of wholesale value as estimated value of vehicle in both purchase option and nonpurchase option leases is permissible; disclosure of lower value is permissible only in purchase option leases, unless lower value complies with § 226.6(f) requirements.

§ 226.15(b)(15)—Lessor must make disclosures required by § 226.15(b)(15)(i) only for "basic term" of lease; "minimum term" disclosures would be those for early termination. Excess mileage charge should not be included in excess liability calculations subject to rebuttable presumptions under § 226.15(b)(15)(ii).

§ 226.15(c)—Lease consummated before March 23, 1977, and extended after that date for more than 6 months on a month-to-month basis or otherwise becomes subject to lease disclosure requirements.

APRIL 15, 1977.

This is in response to your letter of * * *, in which you posed seven questions with respect to the amendments to Regulation Z implementing the Consumer Leasing Act of 1976. While your questions deal with a number of issues, they are all concerned with the open end vehicle leasing program engaged in by your client.

It is the staff's opinion that an official staff interpretation is an appropriate response to only some of your questions. An official interpretation under § 226.1(d) of Regulation Z would be inappropriate for the remaining questions and they will be dealt with in an unofficial staff interpretation which will be sent to you separately. This letter will respond to the following five questions. For convenience, each question will be stated and followed by the staff's response.

1. Will dislosure statements be required after March 23, 1977, for extensions of existing leases not now subject to the Act?

Section 226.15(c) states, "If any existing lease is renegotiated or extended, such renegotiation or extension shall be considered a new lease subject to the disclosure requirements of this Part." It is the staff's opinion that if a lease consummated before March 23, 1977, is extended after the end of the original term for more than six months on a month-to-month basis or otherwise, it would become a "consumer lease" for which disclosures would have to be made. As an extension of more than six months on a month-to-month basis or otherwise requires new disclosures under § 226.15 (c)(2), it is the staff's opinion that a lease which is extended in this manner must be treated as a new lease subject to the disclosure requirements of Regulation Z.

While the disclosures with respect to the lessee's end-term liability may be somewhat more difficult to make in an open end automobile lease where the calculations of the lessee's liability at the end of the original term were made prior to the imposition of the limitations on that liability contained in Section 183(a) of the Act, it is the staff's opinion that such calculations can and should be provided to the lessee in the situation where the lease has become subject to the regulation's requirements.

2. Does § 226.6(f), which permits lessors to underestimate the value of the leased property at the end of the lease term in purchase option leases, permit lessors to use the "wholesale blue book price (or a lower value)" in estimating the value of the leased property at the end of the term?

It is the staff's opinion that the lessor may disclose the wholesale value of the vehicle as the estimated value in both purchase option and non-purchase option leases. There is no requirement in the Act or Regulation Z that the estimated residual value assigned to the vehicle be a retail value. Staff believes that an estimate of the value of the property at the end of the lease term which is based upon the wholesale blue book figure would be reasonable and based upon the best information available to the lessor, as required by § 226.6(f), if the lessor intends to assign a wholesale value to the vehicle at the end of the term.

Use of a lower value than that indicated by the best information available to the lessor, whether blue book or otherwise, as suggested in your letter, would be impermissible in non-purchase option leases, except where the lessor could demonstrate that use of the lower value was based on objective experience in the used motor vehicle market.

3. Should a charge assessed by the lessor at the end of the lease term on mileage driven in excess of a stated number of miles be included in the calculation of the excess liability subject to the rebuttable presumptions of unreasonableness and bad faith under Section 183(a) of the Act and § 226.15(b)(15)(ii) of Regulation Z?

It is the staff's opinion that a charge for excess mileage should not be included in the calculation of excess liability subject to those rebuttable presumptions. Such excess mileage charges may be disclosed by the lessor in conjunction with a standard for determining excessive wear or use of the leased vehicle and could affect the determination of lessee's liability for excessive use and, to some extent, the realized value of the vehicle. However, such charges should not be considered as a portion of the liability of the lessee which is based on the difference between the estimated and realized values.

4. Must your client make the disclosures required by § 226.15(b)(15)(i) not only for the "basic term" but also for the "minimum term" of the lease?

Your client's present open end lease agreement specifies the "basic term" of the lease contemplated by the parties at the inception of the lease, usually a term of 24 or 36 months. The agreement also provides that the lessee may terminate the lease prior to the expiration of the basic term at any time after a "minimum term" of 12 months. The same method is used for determining the lessee's liability upon early termination (after expiration of the "minimum term") or at the end of the lease (the "basic term"). You inquire whether your client must make disclosures for each such lease as though there were two leases, one for the "basic term" and one for the "minimum term," i.e., must the lessor disclose the total lease obligation, the estimated value of the vehicle at the end of the lease term, and the difference between them, for both the "basic term" and "minimum term."

It is the staff's opinion that the lessor is required to disclose those terms listed above, as required by § 226.15(b)(15)(i), only for the "basic term," as this is the lease term contemplated by the parties and the term upon which the calculations of depreciation of the vehicle's value are based. There are required disclosures concerning the lessee's liability and rights at early termination, which would be used in making the disclosures concerning the "minimum term," but they do not involve making the disclosures required by § 226.15(b)(15)(i).

5. May your client continue its present practice of incorporating by reference into the lease contract a separate schedule of depreciation values (usually in the form of a computer printout) which sets forth on a monthly basis the estimated value of the vehicle from the inception of the lease through the end of the maximum holdover term, or must your client include the schedule in the disclosure statement required by Regulation Z?

It is the staff's opinion that such a separate schedule of residual values need not be made part of the required disclosures. Regulation Z does not require disclosure of the estimated residual value of the vehicle at every point during the lease term, although the actual and estimated values of the vehicle must be disclosed at consummation and at the end of the term, respectively, in accordance with § 226.15(b)(15)(i). The schedule of residual values may be disclosed as additional information pursuant to § 226.6(c).

As indicated above, we believe that your remaining questions are inappropriate for an official staff interpretation. Therefore, they will be dealt with in a separate letter to you which does not have official status.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d) of the regulation and limited to the facts stated herein.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0067]

§ 226.15(c)—A lease extended month-to-month for more than 6 months requires new disclosures; disclosures should be made for a month-to-month lease. New disclosures are required at 6-month intervals thereafter.

APRIL 15, 1977.

This is in response to your letter of * * *, in which you raised several questions concerning the Consumer Leasing Act and the amendments to Regulation Z which implement it. Staff believes that two of your questions would be appropriately answered by an official staff interpretation of Regulation Z, while the responses to your other questions would be more appropriately addressed in an unofficial staff interpretation. Therefore, this letter, an official interpretation, will respond only to your questions on renegotiations and extensions.

You inquire what disclosures must be made for a lease which, after the expiration of the initial term, has been extended on a month-to-month basis for six months. Although § 226.15(c) states that an existing lease which is renegotiated or extended shall be considered a new lease, § 226.15(c)(2) states that a lease which is extended for not more than six months, on a month-to-month basis or otherwise, shall not be considered a new lease subject to the disclosure requirements of Regulation Z. Thus, although an existing lease which is extended for not more than six months on a month-to-month basis does not require new disclosures, a lease which is extended for more than six months on a month-to-month basis becomes subject to disclosure requirements. You inquire what lease term should be used in determining the disclosures at the time new disclosures are required.

It is the staff's opinion that disclosures made for a month-to-month extension of a consumer lease should be based on the fact that it is a month-to-month lease. As noted in your letter, the total length of the lease extension cannot be determined at that point and, consequently, the required disclosures cannot be made with any certainty for any period of time longer than one month. Obviously, some of the disclosures would be inapplicable to such a lease disclosure.

Your second question is, "If the lease extends beyond the seventh month on the same month-to-month basis will disclosures then be required again, at the beginning of the eight month, or only at every six month interval during the extension of this month-to-month lease?" It is the staff's opinion that a lease which has been extended after six months on a continuing month-to-month basis (and for which disclosures have been made at the commencement of the seventh month) would not require new disclosures at the beginning of every month thereafter. Staff believes that new disclosures would only be required at the end of the next six-month interval and any additional six-month interval thereafter during which the lease continues in effect. It would be an unnecessary burden on both lessees and lessors to require that new disclosures be given every month after the first six-month extension of a lease beyond its original term.

This is an official staff interpretation issued in accordance with § 226.1(d)(3) of Regulation Z and is limited solely to the facts stated herein. Your other questions will be

dealt with in a separated unofficial staff interpretation. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0068]

§ 226.13(a)—Where bank intends to issue a new credit card under a new name in substitution for an existing credit card, the requirement that the existing card be taken out of circulation or voided in some manner can be satisfied by mailing the new card together with a notification that the existing card is no longer valid and should be destroyed immediately

APRIL 19, 1977.

This is in response to your letter of * * *, requesting an official staff interpretation of § 226.13(a) of Regulation Z concerning the issuance of credit cards in substitution for previously issued credit cards.

You indicate in your letter that banks within the United States intend to issue new credit cards under [a] new name [ ] in substitution for the existing [cards]. A new application will not be obtained, but accompanying the new credit card will be a notification explaining the conversion from [the old card] to [the new card] and advising the cardholder that his or her existing [card] is no longer valid and should be destroyed immediately.

You state that staff indicated in official staff interpretation FC-0012 that the issuance by a bank of a [new] card incorporating a check guarantee feature would not prevent the [new] card from being considered a card issued in substitution for an accepted credit card in accordance with § 226.13(a)(2) of Regulation Z. You question the meaning of the following statement which appeared in FC-0012:

"We should point out, however, that this position is based on the assumption that the [credit card] which is currently held by your bank's customers will be taken out of circulation or voided in some manner."

You state that some banks have construed this statement as requiring either the expiration of the existing [card] or the actual return of the outstanding card to the bank as a condition precedent to the issuance of a substitute [new] card without a new application.

You ask whether such a construction was intended by the staff, or whether mailing the [new] cards together with a notification advising that the existing [cards] are no longer valid and should be destroyed immediately can be considered the issuance of a card in substitution for an accepted credit card.

Staff's statement in FC-0012 that the outstanding [cards] "be taken out of circulation or voided in some manner" does not necessarily contemplate requiring either expiration of the [the old card] prior to issuance of the [new] card or the actual return to the bank of the outstanding [card]. Staff agrees with your suggestion that the requirement that existing [cards] be taken out of circulation or voided in some manner can be satisfied by mailing the [new] cards together with a notification advising that the existing [cards] are no longer valid and should be destroyed immediately.

This is an official staff interpretation issued in accordance with § 226.1(d)(3) of Regulation Z and is limited solely to the facts and issues presented herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0069]

§ 226.8(j)—When the only change in the terms of an existing extension of credit is a reduction in APR accompanied by a reduction in the periodic payment or shortening of the maturity of the obligation necessary to reflect the lower rate, no new disclosures are required.

APRIL 19, 1977.

This is in response to your letter of * * *, in which you request an official staff interpretation of Regulation Z with regard to § 226.8(j) of the regulation and Official Board Interpretation § 226.817.

You ask whether a mortgage lender who has given a borrower proper Truth in Lending disclosures at the inception of a loan is required to give new disclosures if, during the life of the loan, the lender elects to reduce the annual percentage rate. You point out that a reduction in the annual percentage rate will necessarily result in either a reduction of the periodic payments to be made by the borrower or a shortening of the original maturity of the loan. You inquire whether the reduction of the annual percentage rate of a mortgage loan with the concomitant lowering of the periodic payment or shortening of the maturity of the loan constitutes a refinancing under § 226.8(j) and thereby necessitates giving new disclosures under the Truth in Lending Act and Regulation Z.

As your letter points out, Board Interpretation § 226.817 provides, "When no other credit terms are changed, a reduction in the annual percentage rate applicable to an existing extension of credit does not constitute a refinancing under § 226.8(j), and no disclosures are required." It is staff's position that, when the only change in the terms of an existing extension of credit is a reduction in the annual percentage rate accompanied by the lowering of the periodic payment or the shortening of the maturity of the obligation necessary to reflect the lower rate, Board Interpretation § 226.817 is applicable and the creditor need make no new disclosures.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts and issues discussed herein. I trust that this interpretation is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0070]

§ 226.2(m) and § 226.13(a)—Where spouse A requests the opening of a "family credit card account" or an account for which spouses A and B may be authorized users, credit cards sent to spouse A will be viewed as properly solicited; provided that only spouse A is the cardholder, regardless of the name(s) in which the cards are issued, and that no primary contractual liability on the credit card account is imposed upon spouse B merely by issuing a card at the request of spouse A.

Spouse A may request a credit card in the name of spouse B only if, under State agency law, spouse A is empowered to make such a request where spouse B will, through spouse A's request, become a cardholder. (Distinguish 642 and 700.)

Spouse A as cardholder can authorize the issuance of a credit card to spouse B as an authorized user in either spouse's name, even in the absence of a request from Spouse B.

A card issuer may renew properly issued credit card either in the name of a cardholder or in the name of an authorized user. A card issuer may also substitute a user's name on a renewal card where cardholder's name appeared on the previously issued card. The mere issuance of such renewal cards will not render the authorized user(s) contractually liable on the account. (Supersedes 1138 and part of 1129.)

APRIL 21, 1977.

This is in response to your request for an official staff interpretation of § 226.13 of Regulation Z regarding the solicitation of credit cards and the mailing of renewal cards. As reflected in your letters of * * *, and in your oral representations to staff on * * *, you first request the staff to verify that: Spouse A may request the opening of a "family account" or an account for which spouses A and B may be authorized users; and, in response thereto the credit card issuer may issue credit cards in the name(s) of either or both spouse(s) and that such credit cards will not be deemed to be unsolicited within the meaning of Regulation Z.

Staff is of the view that credit cards sent to spouse A in response to such a request will be viewed as properly solicited; provided that only the requesting spouse (spouse A) is the cardholder, as contemplated by § 226.2(m), regardless of the name(s) in which the cards are issued, and that no primary contractual liability on the credit card account is imposed upon the other spouse (spouse B) merely by issuing a card at the request of spouse A. Staff believes that this practice is consistent with the requirements of § 226.13 of Regulation Z and sections 132 and 133 of the Truth in Lending Act, all of which contemplate that card issuers may issue cards to authorized users (who are not contractually liable on the account) at the behest of a cardholder. As evidence of this, it should be noted that § 133(a) of the Act and § 226.13(c) of Regulation Z specifically require the card issuer to provide a means of identifying each user, if the cardholder is to be held liable for unauthorized use to the $50 maximum.

Credit card issuers should be mindful, however, that Regulation B (Equal Credit Opportunity) requires that both spouses have an equal opportunity to have an individual account. So, for example, a policy of responding to a wife's request by requiring the husband to become the cardholder, regardless of the credit worthiness of the wife, would violate Regulation B. Subject to this caveat, staff believes either spouse may authorize the opening of an account for which both spouses will be users and for which the requesting spouse will be contractually liable.

This interpretation is to be distinguished from the opinions stated in Public Information Letters 642 and 700. In those letters staff took the position that spouse A may request a credit card in the name of spouse B only if, under State agency law, spouse A is empowered to make such a request. Staff maintains this position where spouse B will, through spouse A's request, become a cardholder. Where only spouse A will become the cardholder, no authorization under State agency law is necessary to permit spouse A to request a credit card in the name of spouse B as an authorized user.

Similarly, staff maintains the position stated in Public Information Letter 690 that a cardholder's request for additional "user" cards would be sufficient to authorize the issuance of such cards under § 226.13(b). Read together, Public Information Letters 642, 690 and 700 express the opinion that one spouse (spouse A) can authorize the issuance of a credit card to the other spouse (spouse B) in either spouse's name, even in the absence of a request from spouse B.

Essentially, the same rationale applies to the issue raised in your second letter dealing with renewal credit cards. Staff is of the

opinion that it is permissible for a card issuer to renew cards that have previously been properly issued, either in the name of a cardholder or in the name of an authorized card user. It is also permissible in such cases to substitute a card user's name on a renewal card where a cardholder's name appeared on the card which was previously issued. It should be noted, however, that the mere issuance of such renewal cards will not render the authorized user(s) contractually liable on the account.

In light of staff's statements in the preceding paragraph, Public Information Letter 1138 appears to have no further independent justification. Since that letter, which was intended to correct Public Information Letter 1129, contains a technical conflict with this letter in that the distinction between a cardholder and an authorized user is not clearly maintained, and since all issues addressed therein are covered by the preceding paragraph, letter 1138 and the first sentence of the third paragraph of letter 1129 are superseded. The positions articulated in this letter should be applied to letter 1129.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited solely to the facts and issues presented herein. I regret our delay in responding and trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0071]

§ 226.8(b)—Permissible method of disclosure when security interest is taken in a series of sales, where State law requires release of the security interest in items for which the creditor has been fully compensated.

APRIL 28, 1977.

This will respond to your letter of * * *, in which you request a formal Board interpretation of § 226.8(b)(5) of Regulation Z.

Your client engages in closed end credit sale transactions secured by the items purchased. The specific items being purchased in which a security interest is retained are described in the disclosure statement provided in connection with each transaction. All transactions between the same creditor and customer are consolidated with all previous ones, and the latest transaction retains a security interest in all items purchased in the previous transactions. You appear to have no difficulty identifying the property purchased in the latest transaction as being covered by the security interest taken in that transaction. You inquire as to what must be done to identify the property covered by the security interest, as required by § 226.8(b)(5), with respect to property purchased in earlier transactions.

Your question is asked within the context of a North Carolina law which, you indicate, requires in such situations that a security interest be released as the creditor becomes fully paid for any particular item. Because of the provisions of that law, a notice informing the customer making, for example, a third purchase that a security interest is retained in items purchased in the present transaction, as well as those purchased in the previous two, may not be accurate if the creditor has been fully paid for some of the items purchased in the previous transactions. If such were the case, the security interest, under State law, would not apply to some of the items purchased in the previous transactions.

You wish to know if under Regulation Z you may properly describe the property in which a security interest is retained without making the determination as to which items from earlier transactions have been released from the security interest pursuant to State law.

Creditors are required by § 226.8(b)(5) to identify the type of security interest retained and provide a clear identification of the property to which the security interest relates. If identification of the property on the disclosure statement is not possible due to its length, the note, other instrument evidencing the obligation, or separate disclosure statement must contain a reference to another document evidencing the security interest. A copy of this document must be furnished to the customer as promptly as practicable.

The staff is of the opinion that it is permissible to provide the customer with a description of all items in which a security interest is retained, supplemented to indicate that some items may not be subject to the security interest because of the State law requiring release of items for which the seller has been fully paid. Accordingly, your client may comply with the provisions of § 226.8(b)(5) by: (1) providing a disclosure that refers to items, directly or by contract number or other reference, in which a security interest has been retained in the latest transaction and the previous transactions which are currently outstanding, (2) limiting the application of the security interest by explaining that it does not apply to items for which the creditor has been fully paid, and (3) giving the customer, as promptly as practicable, a copy of the security agreements or other documents containing a clear identification of the items purchased under the present or previous transaction.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues outlined herein.

We hope this response has been helpful If we may be of further assistance, please do not hesitate to contact us.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-14094 Filed 5-17-77;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1021—ENVIRONMENTAL REVIEW

Interim Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Interim rule on which comment is solicited.

SUMMARY: This notice proposes and issues as interim rules procedures to be followed by the Consumer Product Safety Commission in carrying out its responsibilities under the National Environmental Policy Act (NEPA). The procedures issued here provide for identification of CPSC actions which require environmental impact statements, designate officials who will be responsible for the statements, describe the content and review process for necessary documents, and, provide for obtaining information and comment from public agencies and interested persons.

DATE: The rules will be effective, on an interim basis, immediately on May 18, 1977. Comments must be received in the Office of the Secretary of the Commission no later than July 5, 1977.

ADDRESS: Comments to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Jeanette Wiltse, General Law Division, Office of the General Counsel, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 (202-634-7770).

SUPPLEMENTARY INFORMATION: In this notice, the Consumer Product Safety Commission (CPSC) issues, as interim rules, procedures to carry out its responsibilities under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347 as amended by Pub. L. 94-83, August 8, 1975). NEPA, implemented by Executive Order 11514 of March 5, 1970, and the Council on Environmental Quality's Guidelines of August 1, 1973, (40 CFR Part 1500) requires that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for legislation and other major Federal actions significantly affecting the quality of the environment. NEPA requires that agencies include in their decisionmaking process an appropriate and careful consideration of all environmental aspects of proposed actions and their alternatives, of ways to avoid or minimize adverse effects of proposed actions, and ways to restore or enhance environmental quality.

The Consumer Product Safety Commission (CPSC) administers and enforces the Consumer Product Safety Act (15 U.S.C. 2051, et seq.), the Flammable Fabrics Act (15 U.S.C. 1191, et seq.), the Federal Hazardous Substances Act (15 U.S.C. 1261, et seq.), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471, et seq.) and the Refrigerator Safety Act (15 U.S.C. 1211, et seq.). These laws confer authority upon CPSC to investigate risks of injury associated with various consumer products, to regulate products to reduce or eliminate certain risks of injury associated with them, and to enforce the laws. In accord with the explicit requirements and criteria of the several laws, Commission action may take any of several forms including: Safety performance standards, bans on the sale of products in interstate commerce, orders requiring recall and/or correction of products, requirements for cautionary labeling of products, and requirements for safety packaging of products.

The CPSC will follow the procedures required by the regulatory statutes it administers in making findings and decisions regarding product safety regulatory actions. The environmental review procedures issued herein will be reserved for analysis and findings concerning the effects regulatory action may have upon the environment. The CPSC will base

its substantive decisions regarding regulatory action on consideration of the results of environmental review in addition to the considerations required by CPSC's regulatory statutes. (See "EDF v. Mathews", 410 F. Supp. 336 (1976).)

The procedures issued here provide for identification of CPSC actions which require environmental impact statements, designate officials who will be responsible for the statements, describe the content and review process for necessary documents, and, provide for obtaining information and comment from public agencies and interested persons.

The procedures generally follow the guidelines of the Council on Environmental Quality for preparation of environmental impact statements, but represent a different approach for identifying actions likely to require environmental statements and actions likely not to require environmental statements than the Council has suggested. In 40 CFR 1500.6(c), the Council has suggested that agencies identify three categories of action: Types of actions which normally do require statements, types of actions which normally do not, and types of actions which may require statements, depending on the circumstances. These procedures adopt a different approach which is more easily tailored to CPSC actions. In this approach, CPSC actions are classified to those which are normally "major Federal actions" and those which are normally not "major Federal actions" in terms of importance and of Federal resources required. The procedures prescribe an environmental assessment report to be followed by an impact statement or a negative declaration, for any CPSC action of a type classified as "major." These documents are required for non-major actions only as circumstances dictate. It is expected that this approach will be effective in allowing both the CPSC and the public to identify actions which will require impact statements. Comments are solicited on this approach and on the identification of major and non-major actions in § 1021.5.

Federal agencies wishing comment by CPSC on their impact statements should be aware that the CPSC has special expertise in analyzing chemical and mechanical hazards and also fire hazards which derive from them. Federal agencies should send their impact statements to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (202) 634-7700.

Because this document contains rules of agency procedure or practice, the relevant provisions of the Administrative Procedure Act (APA, 5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are not applicable. In addition, even if it were to be found that these procedures of the APA apply, the agency for good cause finds that notice and public procedure and delayed effective date are unnecessary because the procedures do not affect anyone's substantive rights and it is in the public interest to have these regulations in effect as soon as possible.

In accordance with Commission policy to solicit public participation and comment whenever practicable, interested persons are invited to submit written comments on these procedures (preferably in five copies) to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 until July 5, 1977. Late-received comments will be considered to the extent practicable. The Commission may make changes in the procedures as a result of comments received or experience with the interim procedures. After reviewing all timely comments, the Commission will publish in the FEDERAL REGISTER, a notice describing what action it will take regarding the procedures.

Accordingly, pursuant to provisions of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321-4347, as amended by Pub. L. 94-83, August 9, 1975) and Guidelines issued by the President's Council on Environmental Quality (40 CFR Part 1500 et seq., 38 FR 20550-20562, August 1, 1975), the Consumer Product Safety Commission proposes the following new Part 1021 of Title 16, Chapter II, Subchapter A. (Until final action is taken on comments received, these procedures will serve as interim guidelines effective for CPSC actions commenced after publication of this document in the FEDERAL REGISTER.)

Subpart A—General

Sec.	
1021.1	Purpose.
1021.2	Policy.
1021.3	Definitions.
1021.4	Overview of environmental review process for major CPSC actions.
1021.5	CPSC actions subject to environmental review.
1021.6	Criteria for determining whether an EIS will be prepared.

Subpart B—Procedures

1021.7	Responsible official.
1021.8	Coordination of environmental review with CPSC regulatory procedures.
1021.9	Public hearing on draft EIS.
1021.10	Legislative proposals.
1021.11	Public participation—notice and comment.

Subpart C—Contents of Environmental Review Documents

1021.12	Environmental assessment report.
1021.13	Negative declaration.
1021.14	Environmental impact statement.

AUTHORITY: National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852, 42 U.S.C. 4321-4347, as amended by Pub. L. 94-83, August 9, 1975) and Guidelines issued by the President's Council on Environmental Quality (40 CFR; Part 1500 et seq. 38 FR 20550-20562, August 1, 1975).

Subpart A—General

§ 1021.1 Purpose.

This part contains Consumer Product Safety Commission procedures for review of environmental effects of proposed major Consumer Product Safety Commission actions and for preparation of environmental impact statements and related documents. These procedures supercede any other procedures that might have previously been applicable. The procedures provide for identification of effects on the environment; for assessment of their significance; for consideration of the effects, whether significant or not, at all stages of the Consumer Product Safety Commission's decision-making process; and for preparation of environmental impact statements for major actions significantly affecting the environment, in accord with the Council on Environmental Quality's Guidelines of August 1, 1973 (40 CFR Part 1500, et seq.). In order that the public can understand and participate in this environmental review process, these procedures include provisions for appropriate notices to the public, for public hearings, and for public availability of environmental review documents.

§ 1021.2 Policy.

It is the policy of the Consumer Product Safety Commission to weigh and consider the effects upon the environment of proposed major actions as it does product safety effects of the actions. All major actions will be designed to avoid or minimize adverse effects upon the environment wherever possible.

§ 1021.3 Definitions as used in this part.

(a) The term "Commission" means the five Commissioners of the Consumer Product Safety Commission;

(b) The term "CPSC" means the entire organization which bears the title Consumer Product Safety Commission";

(c) "Environmental assessment" is an analysis of environmental effects of a proposed major action which is undertaken concurrently with technical and economic studies of the proposed action. The analysis of environmental effects is developed and considered by CPSC during development of the proposed action, as are technical and economic studies.

(d) "Environmental assessment report" is the final, written report of the results of the environmental assessment. Together with any other pertinent information, the environmental assessment report serves as a basis for deciding whether an environmental impact statement is needed.

(e) "Draft environmental impact statement" ("draft EIS") is a comprehensive written report that identifies and analyzes the anticipated environmental impact of a proposed major CPSC action.

(f) "Final environmental impact statement" ("final EIS") is the final written report on the anticipated environmental impact of a major CPSC action. It includes and addresses substantive comments submitted by all persons who respond to publication of the draft environmental impact statement.

(g) "Negative declaration" is a written statement that gives the reasons for a determination, based on an evaluation of the environmenal assessment report and other pertinent information, that an environmetal impact statement need not be prepared.

(h) "Summary sheet" is a document, prepared in accordance with 40 CFR 1500.8(d) of the CEQ guidelines, that accompanies each draft and final environmental impact statement.

(i) "Major action" is a CPSC action of considerable importance involving substantial CPSC planning, time, resources, or expenditures.

§ 1021.4 Overview of environmental review process for major CPSC actions.

The environmental review process begins when CPSC resources are committed to development of a proposal for major CPSC action and progresses through the following steps:

(a) *Environmental assessment.* This assessment is initiated when the proposal and realistic alternatives are defined. Its purpose is to identify and describe foreseeable effects, if any, of the action and its alternatives on the environment. Sources of information for assessment include CPSC staff studies and research reports, information gathered at hearings or meetings held to obtain the views of the public on the proposed action, and other information received from members of the public and from governmental entities. The assessment culminates in a written report. This environmental assessment report generally contains analysis of the same categories of information as would an EIS, but in a much less detailed fashion. It contains sufficient information to form a basis for deciding whether effects on the environment are likely to be significant. (See §§ 1021.5 and 1021.12) The report will suggest any methods or approaches identified which would avoid or minimize adverse effects on the environment.

(b) *Decision as to significance of effects on the environment.* This decision is made by the Executive Director of the CPSC, and is based upon the results of the environment assessment as well as any other pertinent information. Considerations involved in determining significance are described in § 1021.6. If the effects may be significant, public notice (§ 1021.11) is given and preparation of a draft EIS is begun. If not, a negative declaration is prepared.

(c) *Negative Declaration.* This is a written document which gives the reasons for concluding that effects of a proposed action or its alternatives on the environment will not be significant (§ 1021.13). Together with the environmental assessment report, it should convincingly demonstrate the soundness of the conclusion. The negative declaration and environmental assessment report accompany the proposed action throughout the CPSC decisionmaking process. Public notice is given of the availability of the negative declaration and environmental assessment report (§ 1021.11).

(d) *Draft EIS.* The contents of this document are described in § 1021.14. The draft EIS pertaining to a rulemaking proposal shall be before the Commission at the time it takes the proposed action under consideration and shall be available to the public when the notice of proposed rulemaking is published or soon thereafter. The draft EIS for all proposed major actions shall normally be available at least ninety (90) days before any final action is taken. The draft EIS shall accompany the proposed action through the CPSC decisionmaking process.

(e) *Final EIS.* The contents of this document are described in § 1021.14. A final EIS shall normally be before the Commission when it considers a final action and shall be available to the public at least thirty (30) days before final action is taken.

§ 1021.5 CPSC actions subject to environmental review.

(a) The following categories of CPSC action are ordinarily major actions and have the potential of producing significant effects on the environment. An environmental review is required for any action in these categories, unless the Executive Director of the CPSC has made written findings and a determination that an individual action will not be a major action and that its impact on the environment will be negligible or nonexistent. Either an EIS, or a negative declaration together with an environmental assessment report shall be prepared for any action which requires environmental review.

(1) Recommendations or favorable reports to Congress on proposed legislation, including specific appropriations, that will substantially enlarge the scope of regulatory authority of the CPSC or authorize construction of facilities.

(2) Promulgation of rules to provide design or performance standards for products, or major revision or revocation of such standards.

(3) CPSC actions requiring the destruction or disposal of large quantities of products or components of products.

(4) Promulgation of rules banning products from interstate commerce.

(5) Construction or major renovation of CPSC facilities.

(b) The following categories of CPSC action are normally non-major actions with little or no potential for affecting the environment, therefore, an environmental review is not normally required for any action in these categories. However, should any action within these categories become a major action anticipated to affect the environment, an environmental review shall be required.

(1) Promulgation of amendments, exemptions, and revisions to an existing product design or performance standard that do not alter the principal purpose or effect of the standard.

(2) Promulgation of product certification or labeling rules.

(3) Promulgation of rules requiring poison prevention packaging of products.

(4) CPSC actions to require individual manufacturers to give notice of and/or to correct, repair, replace, or refund the purchase price of banned or hazardous products.

(5) Recommendations or favorable reports to Congress on proposed legislation to amend, delete or add procedural provisions to existing CPSC statutory authority.

(6) Decisions on petitions for rulemaking.

§ 1021.6 Criteria for determining whether an EIS will be prepared.

(a) *Determination of significance of environmental effects.* The following general considerations shall be taken into account when reviewing a proposed major CPSC action to determine the significance of its anticipated effects on the environment and deciding whether an EIS is needed:

(1) Indirect effects on the environment shall be considered as well as direct effects. For example, in the case of a CPSC action which has the direct effect of removing a chemical from consumer products, foreseeable indirect effects, associated with the use of a substitute chemical in the products or associated with disposal of stocks of the original chemical, shall be considered.

(2) Consideration shall be given to the extent to which the anticipated effects on the environment are cumulative with effects of prior or future CPSC actions, and to predictable long range effects in addition to short term effects.

(3) Special attention shall be given to the effects on natural resource use (including fuels), on air and water quality, on noise levels, on solid waste disposal, and on the range of beneficial uses of the environment (e.g., recreation).

(4) Determinations of significance shall be made on the basis of quantitative as well as qualitative factors, whenever possible. For example, it may be possible to achieve a good estimate of such items as proportionate effect on use of a natural resource, or on water quality or of dollars of cost or savings in waste treatment.

(b) *Circumstances in which an EIS is required.* An EIS shall be prepared whenever:

(1) A proposed major action may have a significant beneficial and significant adverse impact on the environment, even though on balance, the beneficial effects will outweigh the adverse effects.

(2) The significance of anticipated effects on the environment of a proposed major action is a matter of great controversy among the general public.

(3) A proposed major action may have significant effects on the environment, and the impact of such effects will be confined to one locality.

Subpart B—Procedures

§ 1021.7 Responsible official.

(a) The Executive Director of the CPSC shall have the responsibility to ensure that the Commission's policies and procedures set forth in this part are carried out. He or she shall have the following specific powers and duties:

(1) To determine whether a major CPSC action requires preparation of an EIS.

(2) To make the findings and determination required by § 1021.5(a) whenever he/she decides that an environ-

mental review is not necessary for a CPSC action of a type described in § 1021.5(a), (1)–(5).

(3) To ensure that environmental review documents are before CPSC decisionmakers at all stages of review of proposed major actions.

(4) To make provision for soliciting public comment on the anticipated effects of proposed major actions on the environment at any stage of environmental review, whenever he or she decides that such comment will be helpful. The Executive Director shall have the power to require that provision for soliciting such comments, written or oral, be included in any announcement of a public hearing on proposed rulemaking or on the merits of a petition for rulemaking.

(5) To determine whether a special public hearing is needed on a draft EIS, in accord with § 1021.9.

(6) To call upon all resources and expertise available to CPSC to ensure that environmental review is accomplished through an interdisciplinary effort.

(7) To delegate any of his or her powers and duties, other than the determinations required by paragraphs (a)(1) and (2) of this section, to any officer or employee of the CPSC.

§ 1021.8 Coordination of environmental review with CPSC regulatory procedures.

(a) The preparation and completion of assessments and statements required by this part shall be scheduled to assure that available environmental information is before CPSC decisionmakers at all stages of development of major actions along with technical and economic information otherwise required. Environmental assessments shall be initiated as early as possible in the development of an action.

(b) Draft EIS's or negative declarations, together with environmental assessment reports shall be made available to the public for comment at the time of publication in the FEDERAL REGISTER of CPSC proposals for regulatory action which require environmental review (§ 1021.5), or promptly thereafter. In such cases, draft EIS's shall be made available to the public at least ninety (90) days, and final EIS's at least thirty (30) days, before a Commission final decision on a rule.

(c) If the Commission finds it necessary to take an immediate regulatory action to safeguard the public health and safety and time is too short to allow completion of the procedures of this part prior to the action, the Executive Director or his delegee shall consult with the Council on Environmental Quality regarding alternative arrangements for meeting the requirements of its guidelines concerning minimum periods for agency review and advance availability of environmental impact statements.

(d) Whenever the Commission solicits offers by an outside person or organization to develop a proposed consumer product safety standard in accordance with section 7 of the Consumer Product Safety Act (15 U.S.C. 2056), the Executive Director shall recommend to the Commission whether the "offeror" should perform an environmental assessment during development of the proposed standard. In making this recommendation, the Executive Director shall take into account the resources of the "offeror," including expertise and money available to it. If the Commission decides that the "offeror" should perform an assessment, the agreement between the Commission and the offeror shall so provide.

§ 1021.9 Public hearings on draft EIS.

(a) A public hearing on a draft EIS will be held whenever such a hearing can be expected to aid in clarification of complex and controversial issues, or to facilitate presentation of information helpful to the CPSC. In deciding whether to hold such a public hearing, the extent to which the public has already been involved through earlier public hearings or meetings, or through comments or information contributed during development of the action, shall be taken into account.

(b) Notice of a public hearing to be held on a draft EIS shall be given in the FEDERAL REGISTER and in the CPSC Public Calendar (see 16 CFR 1012.3(a)) at least 15 days and where possible 30 days in advance of the hearing, and no sooner than 30 days after distribution of the draft EIS.

§ 1021.10 Legislative proposals.

Draft EIS's on legislative proposals which may significantly affect the environment shall be prepared as described in Office of Management and Budget Circular No. A-19. The draft EIS shall accompany the legislative proposal or report to Congress and shall be forwarded to the Council on Environmental Quality. Comments received and CPSC's responses shall be forwarded to the appropriate congressional committees. Because legislation undergoes continuous changes in Congress beyond the control of CPSC, no final EIS need be prepared by CPSC.

§ 1021.11 Public participation notice and comment.

(a) In addition to information and comment obtained from the public through hearings, meetings, or otherwise (see §§ 1021.7(a)(4) and 1021.9), information and comment shall be solicited from and provided to the public on anticipated environmental effects of major CPSC actions as follows:

(1) Promptly after a decision is made to prepare a draft EIS, a notice of intent to prepare the draft EIS shall be published in the CPSC Public Calendar, and, if deemed appropriate, in the FEDERAL REGISTER. The notice shall state the nature of the proposed action and the environmental issues identified. The notice shall solicit information and comment by other governmental agencies and the public.

(2) As soon as practicable after a negative declaration is completed, a copy of the negative declaration together with the environmental assessment report shall be forwarded to the Office of the Secretary of the Commission to be made available to the public. Notice of availability of the above documents for public inspection at Commission headquarters shall promptly be given in the CPSC Public Calendar and, if deemed appropriate in the FEDERAL REGISTER. The notice shall state that information and comments received from the public on the documents will be considered and will accompany the documents through the CPSC decisionmaking process, but that comments will not ordinarily be answered individually.

(3)(i) Upon completion of a draft EIS, a notice of its availability for comment shall be published in the CPSC Public Calendar. Five (5) copies of the draft EIS shall be forwarded to the Council on Environmental Quality which will publish a notice of its receipt in the FEDERAL REGISTER. The length of the comment period on the draft EIS shall be stated in the notice of availability and on the cover of the draft EIS. The comment period shall be a minimum of 45 days from the date the notice of receipt is published in the FEDERAL REGISTER by the Council on Environmental Quality. It should also be stated in the notice that comments received during the comment period will be addressed in the final EIS, whereas late comments will be considered to the extent practicable, and that all comments will be appended to the final EIS.

(ii) Copies of the draft EIS shall be sent to public and private organizations known by CPSC to have special expertise with respect to the environmental effects involved, those who are known to have an interest in the action, and those who request an opportunity to comment. Also, copies shall be circulated for comment to Federal, State and local agencies with jurisdiction by law and special expertise with respect to environmental effects involved. Appendices II, III, and IV of the Council on Environmental Quality Guidelines (40 CFR Part 1500) shall be consulted for details of this procedure.

(iii) Draft EIS's shall be available to the public in the Office of the Secretary, at Commission headquarters.

(4) Upon completion of a final EIS, a notice of its availability in the Office of the Secretary, shall be published in the CPSC Public Calendar. Five (5) copies of the final EIS shall be forwarded to the Council on Environmental Quality, and one (1) copy shall be sent to each entity or person who commented on the draft EIS.

(5) A list of EIS's under preparation, and of EIS's or negative declarations and environmental assessment reports completed shall be available to the public in the Office of the Secretary, at Commission headquarters. The list shall be continuously updated. A list of EIS's under preparation and negative declarations completed shall be forwarded to the Council on Environmental Quality on a quarterly basis. The Council will

periodically publish such lists in the FEDERAL REGISTER.

(6) In addition to publication in the CPSC Public Calendar and the FEDERAL REGISTER, notices called for by this section should also be publicized through press releases or local newspapers whenever appropriate.

Subpart C—Contents of Environmental Review Documents

§ 1021.12 Environmental assessment report.

(a) An environmental assessment report shall first briefly describe the proposed action being considered and realistic alternative actions. Next, it shall identify all effects (primary and secondary, beneficial and adverse) on the environment that can be anticipated to result from the proposed and alternative actions. After each anticipated effect is identified, it shall be described as fully as can be done with available data in order to show its magnitude and significance. This examination of effects will normally go on to touch upon the same general areas of concern as an EIS (§ 1021.14): however, the focus of the report shall be upon identification and description of effects.

(b) If, during environmental assessment, any methods or approaches are discovered which would avoid or minimize anticipated adverse effects on the natural environment, these methods or alternatives shall be described in the report.

§ 1021.13 Negative declaration.

(a) A negative declaration shall cite and be attached to the environmental assessment report upon which it is based. It shall refer to anticipated effects upon the environment identified in the environmental assessment report and give the reason(s) why those effects will not be significant. The final paragraph of a negative declaration shall give the reasons why the overall impact on the natural environment is not regarded as significant.

(b) The signature of the Executive Director shall appear at the end of the negative declaration.

§ 1021.14 Environmental impact statement.

(a) The objective of an EIS shall be to give CPSC decisionmakers and the public an in-depth analysis of anticipated environmental effects of a proposed major action and alternative actions, and to show clearly where tradeoffs exist between achieving the goals of the proposed action and causing adverse effects on the natural environment. An EIS shall set out information in a manner that is comprehensible to readers without scientific expertise and in a manner that will facilitate independent evaluation by the reader.

(b) It will be necessary to include in an EIS a description of effects which are not effects on the natural environment, but rather are, for example, purely economic or safety effects. For this reason, an EIS will often include issues and facts that are thoroughly analyzed in other comprehensive CPSC documents such as hazard analyzes, economic impact analyzes, or analyzes of impact on particular age groups among consumers. In such cases, the EIS shall not duplicate the other documents, but rather shall cite and summarize from them. A list of background documents and sources of data cited in the EIS shall appear at the end of every EIS.

(c) An EIS must address the issues described in this paragraph. In addition, CPSC shall use the Council on Environmental Quality Guidelines (40 CFR 1500.8) as basic guidance for the content of EIS's. The major portion of an EIS shall be devoted to paragraph (c) (1) through (3) of this section.

(1) *Background and description of the proposed action and alternative actions.* (i) The EIS shall describe the purpose of the proposed action and briefly set forth the history of the proposal and the schedule for implementing it. If other governmental agencies are involved in the proposed action or are pursuing similar actions, the relationship of their actions to the proposed CPSC action shall be described.

(ii) The EIS shall describe all realistic alternatives to the proposed action, including the alternatives of taking no action or postponing action. The effects on product safety anticipated to result from the proposed action and from alternative actions shall be compared briefly.

(2) *Anticipated effects on the environment.* The EIS shall identify and analyze anticipated effects of the proposed action and alternative actions on the environment. All such effects, whether direct or indirect, adverse or beneficial, shall be addressed.

(3) *Adverse effects.* The EIS shall contain a section which lists the anticipated adverse effects on the environment which cannot be avoided if the proposed actions or alternative action is carried out. In the same section, anticipated adverse effects which can be avoided shall be listed and accompanied by a description of the method(s) for avoiding them.

(4) *Relationship between short term uses of the natural environment and enhancement of long-term productivity.* The EIS shall describe the extent to which achieving the immediate goals of the proposed action will result in long-term loss in use of natural resources or long-term detriment to the quality of the natural environment.

(5) *Irreversible and irretrievable commitments of resources.* The EIS shall indicate whether the proposed action or alternative actions will irreversibly commit or destroy natural resources, reduce the quality of the natural environment, or limit other uses of the natural environment.

(6) *Comments by Federal, State and local agencies and by other interested persons.* (i) Each final EIS shall respond to all substantive comments and new information received during the comment period on the draft EIS. The final EIS shall discuss in detail any major issues newly raised by the comments and give reasons for the CPSC position whenever it disagrees with any major objections raised in the comments.

(ii) All substantive comments received shall be attached to the final EIS.

(7) *Summary sheet.* A summary sheet, prepared as described in 40 CFR Part 1500, Appendix I, shall accompany each draft, and final, EIS.

Interested persons are invited to submit, on or before July 5, 1977, written comments regarding this notice. Comments received after that date will be considered to the extent practicable. Comments 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 memorandum or brief in support thereof. Comments received by the Commission may be inspected in the Office of the Secretary, at 1111 18th Street N.W., Washington, D.C., during working hours, Monday through Friday.

Dated: May 11, 1977.

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

[FR Doc.77-14101 Filed 5-17-77;8:45 am]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Loperamide in Schedule V

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This is a final rule issued by the Administrator of the Drug Enforcement Administration placing the drug loperamide into schedule V of the Controlled Substances Act (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966)).

The Notice published in the FEDERAL REGISTER proposing this rule (41 FR 31553, July 29, 1976) was initiated by the Administrator after he received a request dated January 23, 1976, from the Assistant Secretary for Health, Department of Health, Education, and Welfare, that loperamide be placed into schedule V of the Act for reasons set forth in the Assistant Secretary's letter and in the July 29, 1976 Notice, and after the Administrator's own study of the drug.

The effect of this order is to require that the manufacture, distribution, dispensing, importation and exportation of loperamide be subject to controls as provided by the Act, and by regulations of the Drug Enforcement Administration as codified in Title 21, Code of Federal Regulations, Part 1300 to End.

DATES: Effective date: June 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Chief, Regulatory Control Division, Telephone (202) 382-5676

SUPPLEMENTARY INFORMATION: A Notice was published in the FEDERAL REGISTER on Thursday, July 29, 1976 (41 FR 31553) proposing that schedule V of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812 (c)) be amended to include loperamide. All interested persons were given until August 31, 1976 to submit their comments or objections in writing regarding their proposal.

One comment was received in response to the proposal, from Janssen R & D, Inc. who stated they might in the future raise the issue of whether schedule V controls for loperamide are warranted after they review data which might then become available, but would not presently oppose control and in fact recognized the need for it regarding substances with a potential for abuse.

No further comments or objections were received, nor were there any requests for a hearing, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Assistant Secretary in behalf of the Secretary of Health, Education, and Welfare, received pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, loperamide has a low potential for abuse relative to the drugs or other substances currently listed in schedule IV;

2. Loperamide has a currently accepted medical use in treatment in the United States;

3. Abuse of loperamide may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that § 1308.15(c) of Title 21 of the Code of Federal Regulations (CFR) be amended by adding a new paragraph (c) to read as follows:

§ 1308.15 Schedule V.

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

* * * * *

(c) Loperamide 8125

* * * * *

Dated: May 13, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-14216 Filed 5-17-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 722-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart O—Office of Management and Finance

SUPERVISORY RESPONSIBILITY FOR THE OFFICE OF MANAGEMENT AND FINANCE

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Existing Department regulations provide that the Assistant Attorney General for Administration, who heads the Department's Office of Management and Finance, shall carry out assigned functions under the direction of the Associate Attorney General. Prior to the establishment of the position of Associate Attorney General, the Assistant Attorney General for Administration reported to the Deputy Attorney General. However, the functions of the Office of Management and Finance relate to areas of responsibility of both the Associate Attorney General and the Deputy Attorney General. To avoid overlapping of responsibility, this order places the Assistant Attorney General for Administration under the immediate supervision of the Attorney General.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530. (202-739-2041).

§§ 0.75, 0.76, and 0.77 [Amended]

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, §§ 0.75, 0.76, and 0.77 of Subpart 0 of Part 0 of Chapter I of Title 28, Code of Federal Regulations, are each amended by substituting the phrase "Subject to the general supervision and direction of the Attorney General" for the phrase "Subject to the general supervision of the Attorney General, and under the direction of the Associate Attorney General".

Dated: May 10, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-14203 Filed 5-17-77;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 515—CUBAN ASSETS CONTROL REGULATIONS

Transactions Incidental to Authorized Travel to Cuba

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The existing general license (§ 515.560) in the Cuban Assets Control Regulations authorizes persons who visit Cuba to pay for their transportation to, from, and in Cuba, and expenses for meals, hotels, etc. while in that country. That license is being amended (1) to permit other persons (e.g. travel agencies) to assist American travelers in making arrangements for such travel; (2) to permit charters of aircraft and ships for travel to Cuba; and (3) to facilitate the use of checks, drafts, traveler's checks and credit cards in connection with travel to Cuba.

The amendment will facilitate Cuban travel by permitting the arrangement of group charter tours to Cuba. Scheduled commercial service between the United States and Cuba is not authorized for either domestic or foreign carriers. Travel agents who arrange individual or group travel to Cuba may, among other matters, make block reservations, sell passage aboard a foreign carrier providing regularly scheduled service to Cuba from points outside the United States, charter an aircraft or vessel, transfer funds to Cuban nationals on behalf of travelers, and receive commissions from Cuban enterprises for services rendered in arranging and assisting such travel.

United States firms are authorized to process and pay checks, drafts, traveler's checks and credit card instruments (vouchers, drafts or sales receipts) in connection with Cuban travel. Foreign credit card firms owned or controlled by U.S. persons are authorized to contract with a Cuban enterprise for the extension of credit through the use of credit cards. However, a domestic credit card issuer is not authorized to contract with a Cuban enterprise for the extension of credit to any traveler for any purpose.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 (202) 376-0428.

SUPPLEMENTARY INFORMATION: Since this amendment relaxes existing restrictions and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rule making, an opportunity for public participation, and a delay in effective date are inapplicable.

The primary author of this amendment is Dennis M. O'Connell.

Section 515.560 of the Cuban Assets Control Regulations is amended to read as follows:

§ 515.560 Certain transactions incident to travel to and in Cuba.

(a) The following transactions are authorized:

(1) All transactions ordinarily incident to travel to and from Cuba.

(2) All transactions ordinarily incident to travel in Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there.

(3) The purchase in Cuba, and importation as accompanied baggage, of merchandise with a foreign market value not to exceed $100 per person, for personal use only. Such merchandise may not be resold. The authorization in this subparagraph may only be used once in every six consecutive months.

(4) All transactions by any person incident to arranging or assisting travel by any other person or group of persons to, from, or in Cuba. This authorization includes arranging through transportation to Cuba; selling passage aboard a foreign carrier providing regularly scheduled service to Cuba from points outside the United States; chartering an aircraft or vessel; arranging hotel accommodations in Cuba, ground transportation, local tours and similar travel activities in Cuba; transfer of funds to Cuba or any national thereof; and receipt from Cuba or a national thereof of consideration for authorized services.

(5) All transactions on behalf of aircraft or vessels incidental to nonscheduled flights or voyages to, from, and in Cuba. This paragraph does not authorize the carriage of any merchandise to and from Cuba except accompanied baggage and merchandise authorized by paragraph (a) (3) of this section.

(6) All transactions incident to the processing and payment of checks, drafts, traveler's checks, and similar instruments negotiated in Cuba by any person under the authority of this section.

(7) Processing and payment by United States credit card issuers of credit card instruments (vouchers, drafts, or sales receipts) for authorized expenditures in Cuba forwarded by credit card companies in third countries to the domestic issuer for payment or reimbursement. Foreign credit card firms owned or controlled by U.S. persons are authorized to contract with a Cuban enterprise for the extension of credit through the use of credit cards. However, this paragraph does not authorize a domestic credit card issuer to contract with a Cuban enterprise for the extension of credit to any traveler for any purpose.

(b) Persons who travel to Cuba for the purpose of gathering news, making news or documentary films, engaging in professional research or for similar activities are authorized to acquire and import into the United States, as accompanied baggage or otherwise, such photographs, films, books, magazines, newspapers, and similar publications as are directly related to their professional activities, without limitation as to value. Such merchandise may only be acquired and imported for their own professional use or that of their employers at the time of the travel, and may not be sold to other persons.

(c) Persons who travel in Cuba after March 18, 1977, and who prior to that date were not designated nationals of Cuba, are licensed as unblocked nationals. This subparagraph does not authorize any transaction prohibited by any other section of this part.

(d) This section does not authorize any person subject to the jurisdiction of the United States to make any investment in Cuba, establish any branch or agency in Cuba, or transfer any property to Cuba except transfers by or on behalf of individual or group travelers, and air craft or vessels, as authorized in this section.

(50 U.S.C. App. 5(b); 32 U.S.C. 2370(a); Executive Order 9193, 3 CFR 1943 Cum. Supp.; Treasury Department Order No. 128, 32 FR 3472.)

STANLEY L. SOMMERFIELD,
Acting Director.

Approved: May 12, 1977.

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-14105 Filed 5-13-77;10:33 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 719-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Disapproval of Revision of Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule announces the Administrator's disapproval of a variance request submitted to EPA by the State of Maryland on behalf of the Kelly-Springfield Tire Company, Cumberland, Maryland. The variance would have allowed Kelly-Springfield to convert from residual oil to coal and burn the coal for a period of two years after delivery to the State of a copy of an executed purchase order for the installation of control equipment designed to control particulate (TSP) emissions. The Company is located in an area that is currently not meeting the national ambient air quality standards (NAAQS) for TSP.

EFECTIVE DATE: Immediately on May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Frankford, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On October 14, 1975, the State of Maryland submitted to the Regional Administrator, EPA Region III, a request for a variance from the air pollution control regulations governing Maryland Area I (Maryland portion of the Cumberland-Keyser Interstate Air Quality Control Region (AQCR)). The State asked that this variance request be reviewed and processed as a revision to the Maryland State Implementation Plan (SIP) for the attainment and maintenance of national ambient air quality standards.

The variance, issued by the State on September 24, 1975 would exempt the Kelly-Springfield Tire Company of Cumberland, Maryland from compliance with Maryland Regulations 10.03.36.02C(2) (Control and Prohibition of Visible Emissions) and 10.03.36.03B(3) (Control of Particulate Matter from Fuel Burning Equipment) for a period of two years from the delivery to the State of a copy of an executed purchase order for high-efficiency (99 percent) electrostatic precipitators (ESP). The exception request further permits Kelly-Springfield to burn coal in boilers No. 61 and No. 62 immediately after the boilers are converted to dual firing capability (coal or oil) and temporarily equipped with refurbished medium efficiency mechanical dust collectors. Prior to this request, the Kelly-Springfield Company was burning 1.0 percent sulfur residual oil.

The State of Maryland and the Kelly-Springfield Company justify the variance request with the following:

1. Kelly-Springfield's Cumberland plant represents a substantial economic factor in the Western Maryland area.

2. The competitive position of the Cumberland plant is in jeopardy because of the increase in the cost of fuel oil. The uncertainty of foreign fuel oil supply creates a continuous production threat to the Company.

3. Conversion from fuel oil to Western Maryland coal as a primary fuel will significantly reduce manufacturing costs and in turn stimulate the Western Maryland economy.

4. An analysis by the Company's consultant indicates that the impact of emissions into the ambient air from the coal fired boilers during the two year conversion period may not significantly affect ambient air particulate concentrations.

The State of Maryland submitted proof that a public hearing was held on July 23, 1975 in Cumberland, in accordance with the requirements of 40 CFR 51.4.

On December 30, 1976 (41 FR 56831), the Regional Administrator proposed the variance request submitted by the State of Maryland as a revision of the Maryland State Implementation Plan and provided for a 30-day public comment period, ending January 31, 1977. During the public comment period, no comments were received.

On November 13, 1975, EPA informed the State of Maryland and the Kelly-Springfield Company that if the variance request were approved, the annual particulate concentration levels would increase in an AQCR that is not presently attaining the annual national ambient air quality standard for particulates. Furthermore, if certain meteorological conditions occurred, ambient particulate concentration levels would increase to a point at which human health could be imminently and substantially endangered.

For these reasons, EPA demonstrated to Maryland and the Kelly-Springfield Tire Company alternative control pro-

grams that would preclude either the need for a variance or the need for the Kelly-Springfield Company to go out of compliance with the applicable regulations of the Maryland SIP. However, the Kelly-Springfield Company chose not to adopt or utilize the alternative control programs suggested by the Administrator, or to develop any other satisfactory alternative. Therefore, EPA informed the State of Maryland in March, 1976 that the variance request could not be approved, as the proposed revision would adversely impact the air quality in a presently non-attaining AQCR. Since then, no withdrawal action has been taken by the State.

In view of the fact that the variance request issued by the State of Maryland to the Kelly-Springfield Company would result in increased particulate concentration levels in an AQCR currently designated as a non-attainment area for particulates and the fact that the variance would permit a source that had been in compliance with the applicable Maryland regulations to go out of compliance, the Administrator concludes that approval of this variance request as a revision of the Maryland SIP would be inappropriate.

Therefore, the Administrator hereby disapproves the variance request submitted by the State of Maryland on behalf of the Kelly-Springfield Tire Company as a revision of the Maryland State Implementation Plan.

Copies of the variance request and the analysis on which it is based are available for public inspection during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Mr. Harold Frankford.

Maryland Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Maryland 21201, Attn: Mr. George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(42 U.S.C. 1857c-5.)

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-14089 Filed 5-17-77;8:45 am]

[FRL 721-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to Stanislaus County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Stainislaus County Air Pollution Control District's rules and regulations with the exception of regulations concerning new source review, emergency episode, and gasoline vapor recovery.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by EPA or the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, (415-556-7288).

SUPPLEMENTAL INFORMATION: On February 8, 1977 (42 FR 7968), EPA proposed approval of revisions to the Stanislaus County Air Pollution Control District's rules and regulations submitted on July 25, 1973, July 19, 1974, April 10, 1975, and August 2, 1976. These revisions were submited by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) (21) (vii), (24) (iv), (27) (i), and (32) (ii) are revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(vii) Stanislaus County APCD.

(A) Rules 101-112.

(B) Rules 301-305.

(C) Rules 401-410, 412-421.

(D) Rules 501-518.

* * * * *

(24) * * *

(iv) Stanislaus County APCD.

(A) Rules 101-113.

(B) Rules 301-305.

(C) Rules 401-410, 412-421.

(D) Rules 501-518.

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(27) Revised regulations for the following APCD's submitted on April 10, 1975 by the Governor's designee.

(i) Stanislaus County APCD.

(A) Rule 212.

(B) Rule 409.

* * * * *

(32) * * *

(ii) Stanislaus County APCD.

(A) Rules 101-114.

(B) Rules 303-305.

(C) Rules 407.1, 416, 422, 423.

(D) Rules 501-504, 508-511.

2. Section 52.224(a) (5) (i) is revised as follows:

§ 52.224 General requirements.

(a) * * *

(5) San Joaquin Valley Intrastate:

(i) Stanislaus County APCD.

* * * * *

3. Section 52.254(a) (1) (i) is revised as follows:

§ 52.254 Organic solvent usage.

(a) This section is applicable in the Sacramento Valley, San Francisco Bay Area, and San Joaquin Valley Intrastate Air Quality Control Regions (the "Regions"), except as follows:

(1) In the following portions of the San Joaquin Valley Region, only the hourly emission limitations contained in paragraphs (b), (c), and (d) of this section are in effect; the following paragraphs, needed for interpretation and enforcement of these emission limitations, are also in effect: paragraphs (e) through (l) and (o) through (q) of this section:

(i) Stanislaus County.

* * * * *

[FR Doc.77-14090 Filed 5-17-77;8:45 am]

[FRL 727-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule and reopening of public comment on proposed rule.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) is taking two actions; both actions involve revision to the New York State Implementation Plan (SIP) through changes made to Title 6 of the State's Official Compilation of Codes, Rules and Regulations, Part 225 (6 NYCRR 225) entitled, "Fuel Composition and Use." One action, by reopening EPA's period for public comment, postpones EPA approval/disapproval action regarding proposed changes to New York State's sulfur-in-fuel-oil limitation for the Niagara Frontier. The other action approves a SIP revision concerning

changes made by the State to 6 NYCRR 225.

DATES: The approval action will become effective June 17, 1977. Additional comments on the proposed revision to the sulfur-in-fuel-oil limitation for the Niagara Frontier received on or before July 18, 1977 will be considered.

ADDRESSEES. All comments should be addressed to: Gerald M. Hansler, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Copies of the unapproved part of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Region II Office, Air Programs Branch, Room 908, 26 Federal Plaza, New York, New York 10007.

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

New York State Department of Environmental Conservation, Region 9 Office, 584 Delaware Avenue, Buffalo, New York 14202.

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

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION:

A. INTRODUCTION

A request to EPA to revise the SIP was made by the State on September 20, 1976. Announcement of receipt of the request and a detailed description of the proposed revision are contained in the EPA notice of proposed rulemaking published in the December 16, 1976 FEDERAL REGISTER (41 FR 54955). What follows is a discussion of the EPA decision to postpone approval/disapproval action for a part of the revision requested by the State and to approve the remaining part of the request.

B. POSTPONEMENT OF APPROVAL/DISAPPROVAL ACTION FOR PROPOSED CHANGES TO SULFUR-IN-FUEL-OIL LIMITATION FOR THE NIAGARA FRONTIER

1. SUMMARY OF PROPOSED REVISION

The proposed revision to § 225.1 of 6 NYCRR allows the temporary use in part of the Niagara Frontier Air Quality Control Region (Erie and Niagara Counties) of higher sulfur content fuel oil than currently required by the SIP. New York State proposes that the allowable sulfur-in-fuel-oil content be increased from 1.1 percent to 1.7 percent (on a 3-month average) until December 1, 1977, whereupon, the allowable sulfur-in-fuel-oil content will once again be 1.1 percent. However, for the South Buffalo-Lackawanna area of the Niagara Frontier, the allowable fuel oil sulfur content remains at 1.1 percent.

2. RATIONALE FOR POSTPONEMENT OF EPA'S DECISION ON WHETHER TO APPROVE OR DISAPPROVE

a. *Unhealthful air quality in the area and the need for a thorough control strategy demonstration*—(i) *Discussion.* EPA is postponing its decision on whether to approve or disapprove the proposed revision to relax the limitation on sulfur-in-fuel-oil content for the Niagara Frontier because the State control strategy demonstration is presently inadequate to determine the effect of this revision. The need for a thorough control strategy demonstration is highlighted by the unhealthful air quality which exists in this area. The EPA December 16, 1976 FEDERAL REGISTER notice contains air quality data showing that the primary national ambient air quality standard for the pollutant, sulfur dioxide, is exceeded in the Niagara Frontier. This health-related standard is contravened at two monitoring sites in the South Buffalo-Lackawanna area. In addition, the primary national ambient air quality standard for particulate mattr is also exceeded in the Niagara Frontier.

When establishing the national ambient air quality standards for sulfur dioxide and particulate matter, EPA considered the synergistic effects between these two pollutants. EPA remains concerned about possible synergistic effects and, as noted in a June 24, 1976 memorandum from the EPA Administrator, EPA policy requires a thorough control strategy demonstration prior to EPA approval of any plan revision to allow an increase in sulfur dioxide emissions. Such control strategy demonstrations must provide a high degree of certainty for attainment of sulfur dioxide standards, especially in areas with high levels of total suspended particulates. The Niagara Frontier is such an area. It is also EPA policy, as noted in the June 24, 1976 memorandum, to discourage increases in sulfur dioxide emissions in the heavily industrialized northeastern states until better data are collected on the adverse health effects of sulfates. However, no national standards are yet in effect for sulfates.

As discussed in the EPA December 16, 1976 FEDERAL REGISTER notice, the analysis submitted by the State on the air quality impact of its proposed plan revision is based on rollback techniques. Although rollback techniques are suitable in some situations, atmospheric diffussion modeling generally is required to prepare an acceptable control strategy demonstration for SIP revision. EPA believes that the nature of the revision proposed by the State would minimize the impact of the use of fuel oil with sulfur content greater than 1.1 percent, but at this time EPA is deferring approval/disapproval action until more definite information concerning the proposal can be obtained. In this regard, EPA will continue to work with the State to complete an accurate emission inventory for the Niagara Frontier. This work is being done under an EPA contract and will be followed by diffusion modeling of the polluting sources in the area. The work is scheduled for completion in mid-1977 and EPA has decided to await its completion prior to taking final action on the proposed revision to the sulfur-in-fuel-oil limitation for the Niagara Frontier.

(ii) *Public comments.* Seven of the thirteen written comments received from interested parties in response to the EPA December 16, 1976 notice were from individuals who expressed concern about the existing unhealthful air quality in the Niagara Frontier and generally opposed relaxation of the allowable sulfur-in-fuel-oil content. One commentator questioned the validity of the ambient air quality standards as to whether they are stringent enough to protect public health. The commentator noted the synergistic effect between sulfur dioxide and particulate matter and also suggested that sulfur concentrations are likely to increase as a result of relaxation of sulfur-in-fuel-oil limitations.

The validity of the ambient air quality standards established by EPA was recently reaffirmed by the National Academy of Sciences. To protect the public's health from the adverse effects caused by sulfur dioxide by itself or in combination with other pollutants, EPA requires a thorough control strategy demonstration showing that violations of the sulfur dioxide standard will not be caused or exacerbated by a proposed revision to a control plan. Any potential for an increase in sulfate concentrations will be minimized by requiring protection of the sulfur dioxide standards.

Comments were received from the Erie County Department of Environmental Quality (now the Department of Environment and Development) which supported the use of 1.7 percent sulfur content fuel oil in the Niagara Frontier and seriously questioned the need to reduce this limitation to 1.1 percent after December 1, 1977. The Department stated that nonconforming fuel oil currently is being used in the Niagara Frontier and, therefore, the SIP revision would not significantly change emissions. The County also believes that sulfur dioxide emissions outside the South Buffalo-Lackawanna area have no significant impact on South Buffalo-Lackawanna.

For the period after December 1, 1977, the State has informally notified EPA that it expects to request another revision to its SIP accompanied by a control strategy demonstration meeting the stringent EPA requirements. The sulfur-in-fuel-oil limitations proposed by the State would be based on the results of State and EPA efforts to improve the emission inventory and to perform diffusion modeling. Thus, the need to have a 1.1 percent sulfur-in-fuel-oil limitation for the entire Niagara Frontier after December 1, 1977 will be critically examined.

In addition to Erie County, the State, in its submittal, also informed EPA that nonconforming fuel oil is being used in the Niagara Frontier. The State further informed EPA that the proposed revision will increase sulfur dioxide emissions by 3,000 tons per year over the quantity emitted in 1975, a year when oil with a sulfur-in-fuel content greater than 1.1 percent was used. EPA believes that the extent to which the current use of nonconforming fuel oil is contributing to the existing contraventions of air quality standards or the extent any additional increase in sulfur dioxide emissions will contribute to the contravention of standards cannot be determined with certainty without a more thorough control strategy demonstration and improved emission inventory. The EPA requirement for a thorough control strategy demonstration is intended to document whether a proposed SIP revision will cause or exacerbate air quality problems.

Another commentator stated that current sulfur dioxide emissions are unusually low because of an economic recession and that the air quality impact of relaxing sulfur-in-fuel-oil limitations would be more severe than that estimated by the State. The improvement to the inventory will establish normal operating conditions of sources of sulfur dioxide and thus EPA believes the effect of any changes in sulfur-in-fuel-oil limitations will be accurately accounted for.

In another matter regarding emission estimates, the State clarified an item which appeared in the December 16, 1976 notice. The State indicated that its submittal for the proposed revision specified that the control of coke oven emissions from Bethlehem Steel Corporation, through compliance with 6 NYCRR 214, "By-Product Coke Oven Batteries," would occur after 1977 and not in 1976 and 1977 as incorrectly stated in the EPA notice.

b. *Fuel supply*—(i) *Discussion.* A constraining factor in the development of sulfur-in-fuel-oil limitations for any revision to the SIP is the limited supply of low sulfur fuel oil for the Niagara Frontier. The problem pertains to both short-term and long-term fuel supplies. In addition to providing more time to develop a thorough control strategy demonstration, EPA is postponing its decision on whether to approve or disapprove the proposed revision in order to determine whether adequate low sulfur fuel oil is available to meet the proposed and existing SIP requirements.

In the December 16, 1976 FEDERAL REGISTER notice, EPA noted the State's contention that severe problems exist in supplying oil with a sulfur-in-fuel content of 1.1 percent throughout the Niagara Frontier. EPA also was recently informed that major fuel suppliers for the area applied to the State for emergency variances to sell oil with a sulfur-in-fuel content greater than the limitations contained in the proposed plan revision. These variances were denied by the State. In order to fully investigate the fuel supply situation, EPA plans to contact the Federal Energy Administration and all major fuel oil suppliers for the Niagara Frontier to assess the availability of conforming fuel oil. This assessment will be made both for the period until December 1, 1977, the period for which the proposed plan revision applies, and for the period after December 1, 1977. The information will be used to review the adequacy of the SIP provisions to provide for attainment of standards and to establish available control strategy options. This work also relates to the EPA and State planning effort to provide for maintenance of standards. This effort evaluates the adequacy of the existing control strategy for the next 10 years.

(ii) *Public comments.* EPA received a comment from the League of Women Voters of Buffalo in which the League called for the installation of sulfur removal equipment to protect against the degradation of the air of western New York. The League also asked for an honest assesment as to whether the long term requirement of 1.1 percent sulfur-in-fuel-oil can ever be enforced.

Comments received from the major fuel suppliers to the Niagara Frontier (Mobil Oil Corporation, Ashland Oil, Inc. and the United Refining Co.) generally supported the proposed plan revision. These companies informed EPA that they cannot now supply conforming 1.1 percent sulfur content fuel oil to the Niagara Frontier and might not be able to do so after December 1, 1977. The suppliers cited the uncertainty of the sulfur content of fuel oil distributed by the common carrier pipelines which supply the Niagara Frontier. One of the suppliers also informed EPA that export of Canadian crude oil to the area was to be curtailed at the end of the first quarter of 1977 and that the Canadian crude oil currently available has a high sulfur content.

In comments received from the New York State Department of Environmental Conservation, the State clarified another item which appeared in the December 16, 1976 notice. The State indicated in its submittal that no natural gas curtailments were expected in the Niagara Frontier during 1976 and 1977. In its notice EPA indicated the contrary.

The comments made by interested parties make it incumbent that EPA examine the short-term and long-term fuel supply situation and fuel consumption needs for the Niagara Frontier. By postponing the decision to approve or disapprove the proposed SIP revision as it applies to the sulfur content of fuel oil for use in the Niagara Frontier, EPA will be better able to obtain the information needed to respond to the issues raised by the commenters.

3. INTERIM ENFORCEMENT POLICY

a. *Discussion.* During the period encompassing the preparation of an improved control strategy demonstration and the obtainment of more detailed fuel supply information, EPA will use discretion in the enforcement of the current SIP limitation of 1.1 percent sulfur content fuel oil.

b. *Public comment.* A commentator stated that having two sulfur-in-fuel-oil limitations in the Niagara Frontier, 1.1 percent and 1.7 percent (on a 3-month average), has the effect of precluding citizen enforcement of the SIP under Section 304, "Citizen Suits," of the Clean Air Act. EPA believes that through one of its other actions contained in this notice, approving revision to § 225.7, "Reports, sampling and analysis," the State will have greater authority to obtain the names of all fuel purchasers and to obtain fuel analyses and data on the quantities of fuel received and sold. Consequently, citizens will have greater access to fuel information to initiate a citizen suit, if appropriate. In addition, the results of the EPA enforcement effort to determine the sale or use of nonconforming fuel oil will also provide fuel information. Consequently, EPA believes that having two sulfur-in-fuel-oil limitations within the Niagara Frontier should not hinder citizen involvement or prevent EPA from approving the plan revision if all other EPA requirements are satisfied.

C. APPROVAL ACTION

1. SUMMARY OF APPROVED REVISION TO THE SIP

The revision to the New York SIP being approved by EPA accomplishes the following:

a. Upon demonstration by a source owner that the use of higher sulfur coal will not contribute to the contravention of ambient air quality standards, coal burning sources of greater than 100 million Btu per hour heat capacity may be approved for a special limitation under § 225.2. The previous heat capacity cutoff for requiring a source-generated demonstration was 250 million Btu per hour.

b. The formula contained in § 225.5(a), which determines sulfur dioxide emissions from the burning of fuel mixtures, is modified to include gaseous fuels. Process gases are also included in the formula by the deletion of § 225.5(a)(2).

c. Through revisions to § 225.7, fuel suppliers are required to furnish fuel sale records upon the request of the State.

d. The word "rated" is deleted from §§§ 225.1(a)(1), 225.2 and 225.6 wherever the phrase "rated total heat input" previously appeared.

2. RATIONALE FOR APPROVAL ACTION

EPA concurs with the conclusions reached in the technical support document provided by the State in its request to revise the SIP for the four items noted previously in Section C.1.

One commenter addressed the revision affecting special limitations for coal burning sources. He believes that the reason given for approval by the State is not appropriate. He stated that decreasing the cutoff point for applicability of § 225.2(c) for coal burning sources because "coal users have a greater air pollution impact than oil users of an equivalent heat input" is not valid because this disparity is already accounted

for by the different sulfur-in-fuel requirements for the two fuels.

In response, the State submittal notes that provisions for special limitations in 6 NYCRR 225 permit the use of oil with a sulfur content of 3.0 percent and coal with a sulfur content of 2.8 lbs per million Btu. Since 3.0 percent sulfur content fuel oil is equal to a sulfur content of 1.64 lbs per million Btu, a coal facility rated at 150 million Btu per hour heat input has a potential total sulfur emissions of 420 lbs per hour, which is slightly greater than the emissions of 410 lbs per hour from an oil facility rated at 250 million Btu per hour heat input. Moreover, the sulfur content within a shipment of coal can vary by plus or minus 30 percent. Therefore, to protect against the contravention of the 24-hour ambient air quality standard during the possible use of coal with a sulfur content up to 30 percent greater than allowable, the applicability of §§ 225.2(b) and 225.2 (c) for facilities using coal is being modified from 250 million Btu per hour to 100 million Btu per hour.

Another commenter asked that § 225.2(b) be revised to delete the words "for sulfur dioxide." This would mean that applicable ambient air quality standards for all pollutants would need to be attained before a special limitation increasing the allowable sulfur-in-fuel content can be granted by the State. As noted in Section B of this notice, protection of the sulfur dioxide standards will protect the public from the adverse effects of sulfur dioxide by itself or in the presence of other pollutants. The protection of sulfur dioxide standards must be demonstrated before EPA approves any special limitation.

The same commenter stated that the State special limitation requirements contained in §§ 225.2 and 225.3 are inconsistent with Section 110(f)(1) of the Clean Air Act. This section requires that requests for postponements of applicable SIP requirements be initiated prior to the source's scheduled compliance date.

EPA recognizes the commenter's concern for public notice before any relaxation of an emission standard is permitted. However, since special limitations adopted by the State must be approved by EPA through normal SIP revision procedures, adequate public notice and opportunity for comment is provided. Moreover, the adoption by the State of a special limitation and EPA approval of such a plan revision is not a postponement of an otherwise applicable requirement. Rather, it is the adoption of a new requirement.

D. APPROVAL AND REQUEST FOR ADDITIONAL PUBLIC COMMENTS

EPA finds the revision to 6 NYCRR 225 as it relates to the four items listed in Section B consistent with current EPA policies and goals set forth in the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and EPA regulations contained in 40 CFR Part 51 in that it is not expected to result in the contravention of any applicable ambient air quality standard.

EPA further finds that the proposed revision as it applies to sulfur-in-fuel-oil limitations for the Niagara Frontier should be subject to further deliberation. Therefore, EPA is reopening the period for public comment on whether the plan revision for the sulfur-in-fuel-oil limitations for the Niagara Frontier should be approved.

(Secs. 110 and 301, Clean Air Act, as amended, (42 U.S.C. 1857c-5, 1857g).)

Dated: May 11, 1977.

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

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

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by adding new subparagraph (32) as follows:

§ 52.1670 Identification of plans.

* * * * *

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

* * * * *

(32) Revision to Part 225 submitted on Septembber 20, 1976 and November 5, 1976 by the New York State Department of Environmental Conservation which accomplishes the following:

(i) Upon demonstration by a source owner that the use of the higher sulfur coal will not contribute to the contravention of ambient air quality standards, coal burning sources of greater than 100 million Btu per hour heat capacity may be approved for a special limitation under § 225.2. The previous heat capacity cutoff for requiring a source-generated demonstration was 250 million Btu per hour.

(ii) The formula contained in § 225.5 (a), which determines sulfur dioxide emissions from the burning of fuel mixtures, is modified to include gaseous fuels. Process gases are also included in the formula by the deletion of § 225.5 (a)(2), which precluded such inclusion.

(iii) Fuel suppliers are required to furnish fuel sale records upon request of the State through revision to § 225.7.

(iv) The word "rated" is deleted from §§§ 225.1(a)(1), 225.2 and 225.6 wherever the phrase "rated total heat input" previously appeared.

[FR Doc.77-14091 Filed 5-17-77;8:45 am]

[FRL 727-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Nebraska Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document formally approves Nebraska's continuous monitoring regulation as part of the State Implementation Plan. Approval means that the Federal Government, as well as the State, may enforce this State regulation.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Dewayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108 (816-374-3791).

SUPPLEMENTARY INFORMATION: On November 2, 1976, the Governor of Nebraska officially submitted an amendment to Rule 17 of the Nebraska Air Pollution Control Rules and Regulations to be approved as a revision to the State Implementation Plan (SIP) for the attainment and maintenance of the National Ambient Air Quality Standards. The Revision was subjected to a public hearing in Omaha, Nebraska, on September 10, 1976, and was adopted as of September 22, 1976.

On February 11, 1977 (42 FR 8672), EPA announced receipt of the proposed revision and requested public comment on it. Copies of the revision and supporting documents were made available at several locations. The comment period has expired and no comments have been received.

The revised rule requires continuous opacity monitoring on all existing fossil fuel-fired steam generators of over 250 million Btu-per-hour-heat input. Compliance is required by March 30, 1978. The rule exempts units that burn only gas and oil if they comply with regulations without control equipment and have never been found in violation of visible emission limits. It also gives the director of the Department of Environmental Control the authority to require continuous monitoring by any other emission sources.

The proposed revision is Nebraska's response to the amendments to 40 CFR Part 51 and Appendix P of Part 51 which EPA published October 6, 1975 (40 FR 64620). Appendix P specifies the minimum emission monitoring requirements to be contained in SIPs. The State adopted only opacity monitoring for power plants since there are no other sources subject to Appendix P in Nebraska.

After careful review of this proposed revision, the Administrator has determined that it meets the requirements of Section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51, "Requirements for Preparation, Adoption and Submittal of State Implementation Plans." The revision to Rule 17 is hereby approved and made part of the State of Nebraska implementation plan.

Also published at this time is the date of submission of compliance schedules which were approved March 25, 1977 (42 FR 16139). This addition to the

list under "Identification of Plan" was inadvertently omitted from the March 25 action.

(42 U.S.C. 1857c-5.)

Dated: May 11, 1977.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart CC—Nebraska

In § 52.1420, paragraph (c) is revised by adding new subparagraphs (19) and (20) as follows:

§ 52.1420 Identification of plan.

* * * * *

(19) Compliance schedules were submitted by the Governor on October 27, 1976.

(20) Revised Rule 17, requiring continuous opacity monitoring by power plants, was submitted on November 2, 1976, by the Governor.

[FR Doc.77-14108 Filed 5-17-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20877; RMs 2535, 2541, 2560 and 2634]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Fleminsburg, Lancaster, Lawrenceburg, Lebanon and Versailles, Ky., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This is a Report and Order adopting one of four alternative proposals for FM service in several Kentucky communities because it offers the most potential for first FM service to the public and also provides first local FM service to communities where an interest has been expressed in operating an FM station. The Order retains the assignment at Falmouth, assigns first FM channels to Flemingsburg and Lebanon, deletes a vacant channel at Lancaster, and moves (with a frequency change) the assignment at Lawrenceburg to Versailles where it is presently used. The Versailles station has consented to modification of its license without reimbursement.

EFFECTIVE DATE: June 22, 1977.

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

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau. (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 9, 1977.

Released: May 16, 1977.

By the Chief, Broadcast Bureau: 1. The Commission now considers the comments and reply comments received in response to its Notice of Proposed Rule Making, 41 FR 29710 (published July 19, 1976; adopted July 2, 1976), which proposed four alternative assignment plans for the Kentucky communities named above, based on four interrelated petitions for rule making.

2. The petitioners and their proposals were as follows:

(a) Lebanon-Springfield Broadcasting Company, licensee of AM Station WLBN ("WLBN"), Lebanon, Kentucky, requested the reassignment of occupied Channel 265A from Lawrenceburg, Kentucky,[1] to Lebanon (1970 pop. 5,528), as a first FM assignment to that community. Vacant Channel 292A at Lancaster could then be moved to Versailles as a replacement channel. RM-2535.

(b) John M. Barrick ("Barrick") requested reassignment of unoccupied Channel 237A from Falmouth, Kentucky (1970 pop. 2,593) to Versailles, as a second FM assignment there, and assignment of Channel 292A at Falmouth as a replacement. RM-2541.

(c) Irvenna Broadcasting Company, Inc. ("Irvenna"), licensee of AM Station WIRV, Irvine, Kentucky, proposed the reassignment of unoccupied Channel 292A from Lancaster, Kentucky (1970 pop. 3,230), to Irvine (1970 pop. 2,918), as a first FM assignment. RM-2560.

(d) James Short ("Short") seeks Channel 292A as a first broadcast assignment to Flemingsburg, Kentucky (1970 pop. 2,483). RM-2634. Fleming Co. Broadcasting, Inc., applicant for an AM station at Flemingsburg, has also expressed an intent to apply for this channel if assigned.

3. Based on the conflicting petitions[2] the Commission asked for comments on four different combinations of assignments, as well as preclusion effects, and showings of first and second service. See Roanoke Rapids, N.C., 9 F.C.C. 2d 672 (1967); Anamosa, Ia., 46 F.C.C. 2d 720 (1974). The four assignment plans were as follows:

City	Population	Present	Plan— I	II	III	IV
Falmouth	2,593	237A	292A	237A		
Flemingsburg	2,483			292A	292A	292A
Irvine	2,918		292A			
Lancaster	3,230	292A				292A
Lawrenceburg	3,579	265A				
Lebanon	5,528			265A	265A	265A
Versailles	5,679		265A, 237A	292A	292A, 237A	237A

4. Some of the parties failed to respond to the Notice. Although Lancaster Broadcasters, Inc. ("LBI"), licensee of AM Station WIXI, Lancaster, informed the Commission prior to the Notice that it was preparing an application for a new station on Channel 292A at Lancaster and therefore opposed the deletion of that channel, LBI has filed neither an application nor formal comments in this proceeding. No other party has expressed an interest in an assignment at Lancaster. Petitioner Irvenna also did not comment on the proposals issued by the Commission, and no one has expressed the required intent to construct and operate a station at Irvine if the channel were assigned. Petitioner Barrick filed reply comments, but did no more than state his intent to apply for a second assignment at Versailles. He did not supply the showing of first or second service which was required by the Notice.

5. Other parties presented new considerations. On February 17, 1977, Norkey Enterprises, Incorporated, tendered its application to the Commission for authority to construct a new FM broadcast station on Channel 237A presently assigned to Falmouth. Mid-America Radio, Inc., licensee of FM Station WXTZ (Channel 277) at Indianapolis, Indiana, requested the substitution of Channel 237A for 276A proposed at Versailles, Indiana (which would require the deletion of Channel 237A at Falmouth). The removal of adjacent Channel 276A from Versailles, Indiana, would permit Mid-America to move its transmitter closer to the center of Indianapolis and still meet the Commission's separation requirements. Such a move, Mid-America states, would enable it to provide a city grade signal to the recently expanded city of Indianapolis. Charles Cutler has filed comments proposing that Channel 237A be assigned to Milton, Kentucky (1970 pop. 756), if it is deleted at Falmouth. The Commission had previously rejected this assignment because of short-spacing to Falmouth (letter of January 9, 1976), but Cutler resubmitted

[1] Channel 265A is licensed to Woodander Broadcasting Company ("Station WJMM") and operated at Versailles, Kentucky, under the Commission's 10-mile rule. Section 73.207(b).

[2] The conflict results from the Commission's minimum co-channel separation requirements, Section 73.207(a), which prevent the use of Channel 292A at all four of the communities involved in these proposals:

(a) Assignment at Versailles (proposed by WLBN) would prevent assignment of the same channel at Falmouth (Barrick) and Irvine (Irvenna).

(b) Assignment of the channel at Irvine (Irvenna's proposal) conflicts with assignment of that channel at Versailles (WLBN) and Flemingsburg (Short).

(c) Assignment at Flemingsburg (Short's proposal) conflicts with assignment at Irvine (Irvenna) and Falmouth (Barrick).

(d) Assignment at Falmouth (Barrick) would conflict with assignment at Flemingsburg (Short) and Versailles (WLBN).

it in light of the possible deletion of the Falmouth channel.

6. The following tabulation shows the major arguments advanced by the various parties [3] in favor of each of the plans and the impact each would have in terms of preclusion and the Commission's assignment criteria.[4] All of the plans are compatible with Mid-America's request to facilitate a transmitter move, and with Cutler's proposal to assign a channel to Milton, except Plan II which would not delete Channel 237A at Falmouth.

[3] See the following footnote:

Commenting Parties:	Supports plan No.
John M. Barrick, Versailles, Kentucky (petitioner, RM-2541)	3, 1
Charles N. Cutler, Milton, Kentucky	1, 3, 4
Fleming Co. Broadcasting, Inc., Flemingsburg, Kentucky	2, 3, 4
Lebanon-Springfield Broadcasting Company, WLBN, Lebanon, Kentucky (petitioner, RM-2535)	2, 3, 4
Mid-America Radio, Inc., WXTZ, Indianapolis, Indiana	1, 3, 4
James Short, Flemingsburg, Kentucky (petitioner, RM-2634)	2
Woodander Broadcasting Company, WJMM, Versailles, Kentucky	2

Mid-America, Short, and Lebanon-Springfield filed reply comments also; Barrick filed reply comments only.

[4] The Commission's FM assignment criteria are set forth and discussed in the Further Notice of Proposed Rule Making in Docket No. 14185, 27 FR 7797 (1962), and incorporated by reference in the Third Report, Memorandum Opinion and Order, 40 F.C.C. 747, 758 at para. 25 (1963). The Commission's preclusion policy is explained in Anamosa and Iowa City, Iowa, 40 F.C.C. 2d 250 (1974).

City, channel No. and population	Present local aural service	Service to underserved areas	Preclusion
Plan I			
Falmouth, channel 292A (2,593).	None. channel 237A assigned unused.	1st FM service to 1,503 population. 2d FM service to 7,147 population. No 1st or 2d aural service.	Minor cochannel.
Irvine, channel 292A (2,918).	1 AM daytime only.	No data	Significant cochannel preclusion including 1 community with no FM assignment and 6 with neither AM nor FM.
Versailles, channels 237A and 265A (5,679).	1 FM	do	265A, already in operation. 237A, minor cochannel preclusion.
Plan II			
Falmouth, Ky., channel 273A (2,593).	Channel 237A assigned unused.	1st FM service to 1,503 population. 2d FM service to 7,145 population. No 1st or 2d aural service.	None.
Flemingsburg, Ky., channel 292A (2,483).	None	1st FM service to 1,506 population. 2d FM service to 14,200 population. No 1st or 2d aural service.	Minor cochannel preclusion.
Lebanon, Ky., channel 265A (5,528).	1 AM daytime only.	1st FM service to 14,940 population. 2d FM service to 11,146 population. 2d nighttime aural service to 14,732 population.	Cochannel preclusion for Springfield, Ky.
Versailles, Ky., channel 292A (5,679).	1 FM	No data	Preclusion of 5 communities without FM service. 2 have AM stations, other 3 less than 2,000 population.
Plan III			
Flemingsburg, Ky., channel 292A (2,483).	None	1st FM service to 1,506 population. 2d FM service to 14,200 population. No 1st or 2d aural service.	Minor cochannel preclusion.
Lebanon, Ky., channel 265A (5,528).	1 AM daytime only.	1st FM service to 14,940 population. 2d FM service to 11,146 population. 2d nighttime aural service to 14,732 population.	Cochannel preclusion for Springfield, Ky.
Versailles, Ky., channels 237A and 292A (5,679).	1 FM	No data	237A, minor cochannel preclusion. 292A, preclusion of 5 communities without FM service. 2 have AM stations, other 3 less than 2,000 population.
Plan IV			
Flemingsburg, Ky., channel 292A (2,483).	None	1st FM service to 1,506 population. 2d FM service to 14,200 population. No 1st or 2d aural service.	Minor cochannel preclusion.
Lancaster, Ky., channel 292A (3,230).	1 AM daytime only.	No data	None.
Lebanon, Ky., channel 265A (5,528).	do	1st FM service to 14,940 population. 2d FM service to 11,146 population. 2d nighttime aural service to 14,732 population.	Cochannel preclusion for Springfield, Ky.
Versailles, Ky., channel 237A (5,679).	1 FM	No data	Minor cochannel preclusion.

7. We have carefully considered the record in this proceeding, and based upon the pleadings and the information summarized above, it is our conclusion that Plan II best serves the public interest. This plan is consistent with the Commission's assignment policies which place high priority on providing first aural service and first local FM service. Plan II offers the most first service, as well as first local FM assignments to Flemingsburg and Lebanon, where intentions have been expressed for prompt broadcast applications. Service is continued at Versailles and actual use of the channel there would be reflected in the Table by its deletion at Lawrenceburg.[5] Falmouth, where an application is now pending, would keep its assignment.

8. Plan II is superior to the other plans for the following reasons. Plan I would assign a channel to Irvine where no continuing interest was expressed. Plan III (and Plan I) would assign two channels to Versailles instead of a first channel and first service at another community of comparable size. Plan IV (and Plan III) would delete the assignment at Falmouth for which interest has now been expressed, and Plan IV would assign a channel at Lancaster where there appears to be no present interest in a new station. In our choice of Plan II we are aware of the fact that the Mid-America and Cutler plans cannot be adopted. Nevertheless, we find that the relative size and needs of the population of Falmouth justify this decision.

9. Plan II has the disadvantage of causing somewhat more preclusion than the other plans, primarily due to the Channel 292A assignment at Versailles. Our study indicates that five communities in Kentucky will be precluded from future assignments on Channel 292A. Those communities are Nicholsville (1970 pop. 5,829), Irvine (2,918), Carlisle (1,579), Midway (1,278) and Owingsville (1,381). Of these, Nicholsville and Irvine currently have AM broadcast stations. The petitioner at Irvine dropped out of this proceeding, and no one at the other communities has commented on or expressed interest in an FM assignment there. These communities have small populations compared to Versailles. The co-channel preclusion that Channel 265A at Lebanon will occasion at Springfield, Kentucky, is mitigated by the fact that Springfield is near Lebanon and will benefit from the additional FM service to the area. LBI states that it maintains auxiliary studios in Springfield for WLBN at Lebanon, and would propose to serve Springfield from a Lebanon FM station if so authorized. We therefore find that the first and second service that can be provided by the adoption of Plan II outweighs the disadvantage of the somewhat greater preclusion it would entail.

10. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations, *It is ordered*, That effective June 22, 1977, the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, is amended[6] for the Kentucky communities listed hereafter, to read as follows:

City:	*Channel No.*
Flemingsburg, Ky	292A
Lancaster, Ky	----
Lawrenceburg, Ky	----
Lebanon, Ky	265A
Versailles, Ky	292A

11. Since Woodander Broadcasting Company, Station WJMM, Versailles, has consented to modification of its license without reimbursement to operate on Channel 292A at Versailles, *it is further ordered*, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Woodander Broadcasting Company for Station WJMM at Versailles, Kentucky, IS MODIFIED effective June 22, 1977, to specify operation on Channel 292A in lieu of 265A. Station WJMM may continue to operate on Channel 265A subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 292A, the licensee of Station WJMM shall submit to the Commission the technical information normally requested of an applicant;

(b) At least 10 days prior to commencing operation on Channel 292A, the licensee of Station WJMM shall submit the measurement data required of an applicant for an FM broadcast station license; and

(c) The licensee of Station WJMM shall not commence operation on Channel 292A without prior Commission authorization.

12. *It is directed*, That the Secretary of the Commission send a copy of this Report and Order by certified mail, return receipt requested, to Woodander Broadcasting Company, Station WJMM, Versailles, Kentucky.

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

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

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14069 Filed 5-17-77;8:45 am]

[5] Station WJMM at Versailles supports this plan and states that it is willing to shift to Channel 292A without reimbursement.

[6] The assignment of Channel 237A at Falmouth will remain unchanged.

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.

FEDERAL RESERVE SYSTEM

[12 CFR Part 202]

[Reg. B; Docket No. R-0100]

EQUAL CREDIT OPPORTUNITY

Credit Program; Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed interpretation.

SUMMARY: In response to requests for guidance concerning the intended coverage of the provisions of Regulation B relating to special purpose credit programs offered by Federal and State agencies, the Board proposes to interpret the term "expressly authorized by law." Lenders have sought this clarification to determine whether the government loan programs in which they participate qualify for the partial exemption provided in Regulation B. The Board is seeking public comment to aid in the determination of whether the proposed interpretation properly implements the Equal Credit Opportunity Act.

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

ADDRESSES: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20009.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Acting Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (202-452-3946).

SUPPLEMENTARY INFORMATION: (1) To aid in the consideration of this proposed interpretation by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. Any such information should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than June 17, 1977. All material submitted should include the docket number R-0100. Such information will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(2) Authority: 15 U.S.C. 1691(b).

In order to provide guidance concerning the intended coverage of § 202.8(a) [1] of Regulation B, the Board interprets a term used in that section as follows: A credit program is considered to be "expressly authorized by Federal or State law" if it is authorized by the terms of a Federal or State statute or by a regulation lawfully promulgated by the agency responsible for implementing the program.

In addition, the Board announces that it will not make determinations as to whether particular programs benefit an "economically disadvantaged class of persons." The Board believes that such a determination is more properly made by the agency charged with the administration of the loan program.

By order of the Board of Governors, effective May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-14095 Filed 5-17-77;8:45 am]

[1] Standards for programs. Subject to the provisions of subsection (b), the Act and this Part are not violated if a creditor refuses to extend credit to an applicant solely because the applicant does not qualify under the special requirements that define eligibility for the following types of special purpose credit programs: (1) any credit assistance programs expressly authorized by Federal or State law for the benefit of an economically disadvantaged class of persons.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1245]

PATENT WAIVER REGULATIONS

Proposed General Procedures

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed Regulation Revision.

SUMMARY: NASA proposes to revise its Patent Waiver Regulations as set forth below. This revision is needed in order to promote Government-wide uniformity in regulations for the allocation of rights to inventions between the Government and its contractors. This proposed revision, together with a related revision of the NASA Procurement Regulations (NASA PR 9-107 and 9-109; PRD 76-14) is intended to provide such uniformity, to the extent consistent with the requirements of section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457).

DATE: Comments or suggestions respecting the proposed revision should be submitted in writing not later than June 17, 1977.

ADDRESS: General Counsel, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Robert F. Kempf, Assistant General Counsel for Patent Matters. Telephone (202) 755-3932 National Aeronautics and Space Administration, Washington, DC 20546.

SUPPLEMENTARY INFORMATION: The proposed revision to the NASA Patent Waiver Regulations is based in part on related regulations covering the allocation of rights in inventions resulting from federally sponsored research and development that were developed by the General Services Administration in cooperation with the Committee on Government Patent Policy, Federal Council for Science and Technology, in order to uniformly implement the revised Presidential Statement of Government Patent Policy (36 FR 16887, Aug. 26, 1971). These related regulations have been adopted by the Federal Procurement Regulations (41 CFR 1-9.107 & 9.109), and have been incorporated in the Armed Services Procurement Regulations (ASPR 9-107 & 109). NASA intends to include relevant portions of such related regulations, to the extent consistent with the requirements of section 305 of the Space Act, in the proposed revision to its Patent Waiver Regulations.

The proposed revision to the NASA Patent Waiver Regulations also includes a policy statement (§ 1245.103(c)) that, whenever NASA awards contracts for research, development or demonstration work on behalf of or in support of a program of the Energy Research and Development Administration (ERDA) on a reimbursable basis pursuant to agreement between ERDA and NASA, the waiver policy, regulations and procedures of ERDA will be applied.

Subpart 1 is revised in its entirety as follows:

Subpart 1—Patent Waiver Regulations

Sec.
1245.100 Scope.
1245.101 Applicability.
1245.102 Definitions and terms.
1245.103 Policy.
1245.104 Advance waivers.
1245.105 Waiver after reporting inventions.
1245.106 Waiver of foreign rights.
1245.107 Reservations.
1245.108 License to contractor.
1245.109 Revocation and voidability of waivers.
1245.110 Content of petitions.
1245.111 Submission of petitions.
1245.112 Notice of proposed Board action and reconsideration.
1245.113 Hearing procedure.
1245.114 Findings and recommendation of Board.
1245.115 Action by the Administrator.

Sec.
1245.116 Filing of patent applications and reimbursement of costs.
1245.117 Pubication and record of decisions.

AUTHORITY: 42 U.S.C. 2457.

§ 1245.100 Scope.

This Subpart 1 prescribes regulations for the waiver of rights of the United States to inventions made under NASA contract.

§ 1245.101 Applicability.

The provisions of this subpart apply to all inventions made or which may be made under conditions enabling the Administrator to determine that the rights therein reside in the United States pursuant to section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)).

§ 1245.102 Definitions and terms.

As used in this subpart:

(a) "Contract" means any actual or proposed contract, agreement, understanding, or other arrangement with the National Aeronautics and Space Administration (NASA) or another Government agency on NASA's behalf, including any assignment, substitution of parties or subcontract executed or entered into thereunder, and including NASA grants awarded under the authority of 42 U.S.C. 1891–1893.

(b) "Contractor" means the party who has undertaken to perform work under a contract or subcontract.

(c) "Invention" includes any art, method, process, machine, manufacture, design or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(d) "Made," when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(e) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine, and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(f) "Board" means the NASA Inventions and Contributions Board established by the Administrator of NASA within the Administration under section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)).

(g) "Chairman" means Chairman of the NASA Inventions and Contributions Board.

(h) "Petitioner" means a contractor or prospective contractor who requests that the Administrator waive rights in an invention or class of inventions made or which may be made under a NASA contract. In the case of an identified invention, the petitioner may be the inventor(s).

(i) "Government agency" includes any executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(j) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(k) "Administrator" means the Administrator of the National Aeronautics and Space Administration or his duly authorized representative.

§ 1245.103 Policy.

(a) In implementing the provisions of section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)) and in determining when the interests of the United States would be served by waiver of all or any part of the rights of the United States in inventions made in the performance of work under NASA contracts, the Administrator will be guided by the objectives set forth in the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2477) and by the basic policy of the revised Presidential Memorandum and Statement of Government Patent Policy issued August 23, 1971 (36 FR 16887–16892). Among the most important goals thereof are to provide incentives to foster inventiveness and encourage reporting of inventions made under NASA contracts, to provide for the widest practicable dissemination of new technology resulting from NASA programs, and to promote early utilization, expeditious development and continued availability of this new technology for commercial purposes and the public benefit. In applying this regulation both the need for incentives to draw forth private initiatives and the need to promote healthy competition in industry must be weighed.

(b) Several different situations when waiver of all or any part of the rights of the United States may be requested are prescribed in §§ 1245.104–1245.106. Under § 1245.104, advance waiver of rights to any or all of the inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract. Waiver of rights to an identified invention made and reported under a contract may be requested under any of these provisions even though a request under a different provision was not made, or if made, was not granted. Waiver of foreign rights under § 1245.106 may be requested concurrently with domestic rights or independently thereof.

(c) With respect to inventions which may be or are made or conceived in the course of or under contracts for research, development or demonstration work awarded by NASA on behalf of the Energy Research and Development Administration (ERDA) or in support of an ERDA program, on a reimbursable basis pursuant to agreement between ERDA and NASA, the waiver policy, regulations and procedures of ERDA will be applied.

§ 1245.104 Advance waivers.

(a) The provisions of this § 1245.104 apply to petitions for waiver of domestic rights to any or all of the inventions which may be made under a contract. Such petitions may be submitted by the contractor prior to its execution of the contract or within 30 days thereafter.

(b)(1) The Board shall recommend to the Administrator that waiver of domestic rights to any or all of the inventions which may be made under the NASA contract involved be granted when the Board makes each of the findings of paragraphs (c) and (d) of this section and concludes that the interest of the United States would be served thereby. Such waiver shall apply to inventions reported during the term of the contract and which are designated at the time of reporting as being an invention on which the waiver recipient intends to file or has filed a U.S. patent application.

(2) When the Board is unable to make one or more of the findings to support a waiver under paragraph (c) of this section as to the contract but nevertheless finds that exceptional circumstances exist so that the public interest would best be served by a waiver of rights to any or all of the inventions which may be made under the contract, the Board shall recommend to the Administrator that waiver be granted (conditions of paragraph (d) of this section are not relevant to the Board's findings under this subparagraph). A finding of exception circumstances shall be accompanied by a discussion of the rationale therefor. Examples of exceptional circumstances would include: A contract where participation of the contractor may only be secured through the grant of waiver and such contractor is deemed essential to a NASA program objective; a contract having as a principal objective the application of aerospace rated technology to other uses in accordance with an established NASA technology application program and where the grant of waiver would materially advance this objective; or, a cooperative endeavor where the contract calls for a significant contribution of funds by the contractor to the work to be performed. In the case of an invention which is identified prior to execution of the contract, exceptional circumstances may also be found where waiver is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical or commercial application and where either (i) the contratcor has established substantial equities at its own expense in the development of the invention; or, (ii) the grant of advance waiver will significantly advance the availability of the invention to the general public.

(c) (1) It is not a principal purpose of the contract to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations.

(2) It is not a principal purpose of the contract to explore into fields which directly concern the public health, public safety, or public welfare.

(3) The contract is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developed of the field; and the acquisition of exclusive rights at the time of contracting would not likely confer on the petitioner a preferred or dominant position.

(4) The contract is ont for services of the petitioner for (i) the operation of a Government-owned research or production facility; or (ii) coordinating and directing the work of others.

(d) (1) The purpose of the contract is to build upon existing knowledge or technology, to develop information, products, processes, or methods for use by the Government.

(2) The work called for by the contract is in a field of technology in which the petitioner has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position), and either (i) the work is directly related to an area in which the petitioner has an established nongovernmental commercial position; or (ii) the commercial position of the petitioner is not sufficiently established, but a special situation exists such that the public interest in the availability of inventions would best be served by a waiver of rights to the petitioner. Such special situations include, but are not limited to the following:

(A) A newly formed company having a definite program for establishing a nongovernmental commercial position in the field of the contract or in an area directly related thereto.

(B) An established company lacking an established nongovernmental commercial position in the field of the contract or a directly-related field, but having established plans and programs for achieving such a position.

(C) An educational or nonprofit institution having a promulgated policy and an effective program for acquiring rights to inventions and for acting by itself or through others to bring the results of such inventions to commercial application.

(e) When a petition for waiver is submitted pursuant to paragraph (a) of this section, prior to contract execution, it will be processed expeditiously so that a decision on the petition may be reached prior to execution of the contract. However, if there is insufficient time or insufficient information is presented, or for other reasons which do not permit a recommendation to be made without unduly delaying execution of the contract, the Board will inform the contracting officer that no recommendation has been made and the reason therefor. The contracting officer will then notify the petitioner of the Board's action.

(f) After notification by the contracting officer under paragraph (e) of this section, the petitioner may, upon its execution of the contract, or within 30 days thereof, request the Board to reconsider the matter under paragraph (b) of this section either on the record or with any additional statements submitted in support of the original petition.

(g) A waiver granted pursuant to a petition submitted under this § 1245.104 shall apply only to those inventions reported during the term of the applicable contract and which are designated at the time of reporting as being an invention on which the petitioner intends to file or has filed a U.S. patent application. The waiver shall extend to the claimed invention of any division or continuation of the patent application filed on the reported invention provided the claims of the subsequent application do not substantially broaden the scope of the reported invention.

(h) A waiver granted pursuant to a petition submitted under this § 1245.104 shall extend to any contract changes, modifications, or supplemental agreements, so long as the purpose of the contract or the scope of work to be performed is not substantially changed.

§ 1245.105 Waiver after reporting inventions.

(a) (1) The provisions of this § 1245.105 apply to petitions for waiver of domestic rights to identified inventions which have been reported to NASA and to which a waiver of rights has not been granted pursuant to § 1245.104. A petition for a waiver under this section should be filed promptly after the reporting of the invention to NASA, and must be submitted prior to the filing by NASA of a U.S. patent application claiming the reported invention.

(2) A waiver granted pursuant to this section shall extend to the claimed invention of any division or continuation of the patent application filed on the reported invention provided the claims of the subsequent application do not substantially broaden the scope of the reported invention.

(b) The Board shall recommend to the Administrator that waiver of domestic rights to an identified invention be granted where the Board makes all of the findings below and concludes that the interest of the United States would be served thereby:

(1) The invention is not directly related to a governmental program for creating, developing, or improving products, processes, or methods for use by the general public at home or abroad.

(2) The invention is not likely to be required by governmental regulations for use by the general public at home or abroad.

(3) The invention does not directly concern the public health, public safety, or public welfare.

(4) The invention is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights in the invention would not likely confer on the petitioner a preferred or dominant position.

Provided, That the Board also finds in view of the petitioner's plans and intentions to bring the invention to the point of practical application, and the activities of the Government, the incentives provided by waiver will increase the likelihood that the benefits of the invention would be readily available to the public at an early date.

(c) If the Board is unable to make one of the findings to support a waiver under paragraph (b) (1) through (4) of this section, the Board may nevertheless recommend that waiver of domestic rights be granted by the Administrator if the Board further finds that such waiver is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical application, or that the Government's contribution to the invention is small compared to that of the contractor.

§ 1245.106 Waiver of foreign rights.

(a) The Board will consider the waiver of domestic and foreign rights concurrently when so requested by the petitioner in accordance with § 1245.110 (d). Where the Board makes the findings necessary to support a waiver of domestic rights, the petitioner will normally be granted the right to secure patents in any country in which it elects to file provided that the grant of such right is consistent with the economic interests of the United States. The Board may also recommend the grant of only foreign rights, in accordance with the guidelines of paragraph (b) of this section, when the interests of the United States will best be served thereby.

(b) The Board will also consider a separate request for the waiver of the right to secure a patent in any country in which the petitioner elects to file as to an identified invention when so requested by the petitioner in accordance with § 1245.110(d). Waiver of such foreign rights will normally be granted in countries in which the Administrator does not desire to file an application for patent provided that the grant of such rights is consistent with the economic interests of the United States.

(c) When the Administrator determines that it is in the best interest of the Government and the petitioner to withhold the release or publication of information on an invention for which the petitioner has requested waiver and is to file foreign patent applications thereon, NASA may agree, upon written request by the petitioner, to use its best

efforts to withhold publication until a patent application is filed thereon, but in no event shall the Government or its employees be liable for any publication thereof.

§ 1245.107 Reservations.

(a) With respect to any particular invention, each waiver of domestic or foreign rights granted shall be subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the U.S. Government or any agency thereof, any foreign government pursuant to any existing or future treaty or agreement with the United States, or States and/or domestic municipal governments unless the Administrator determines, based upon a recommendation of the Board, that it would not be in the public interest to acquire the license for States and/or domestic municipal governments.

(b) With respect to any particular invention, each waiver of domestic rights granted shall be subject to the reservation by the Administrator of the right to require the granting of a nonexclusive or exclusive license for the practice of the invention to any responsible applicant on terms that are reasonable under the circumstances:

(1) Unless the waiver recipient, its licensees, or assigns have taken effective steps within 3 years after a U.S. patent issues on the invention to bring the invention to the point of practical application and thereafter continue to work the invention and make its benefits reasonably accessible to the public; or

(2) Unless within 3 years after a U.S. patent issues on the invention, the waiver recipient, its licensee, or its assigns have made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances; or

(3) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill health, safety, or welfare needs, or for other public purposes stipulated in the contract.

(c) With respect to any particular invention, each waiver granted for domestic or foreign rights shall be subject to the reservation by the Administrator of the right to require refund of any amounts received as royalty charges on the waived invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the waived invention.

(d) With respect to any particular invention, each waiver granted for domestic or foreign rights shall be subject to any other reservations called for by the Administrator on the grant of the petition.

(e) The waiver recipient shall be given an opportunity to show cause before the Board why it should not be required to grant a license under paragraph (b) of this section or why it should retain the principal or exclusive rights as provided by waiver for a further period of time.

§ 1245.108 License to contractor.

Each contractor reporting an invention is granted a license for each filed patent application and any resulting patent in which the Government acquires title of the scope and on the terms and conditions specified in the NASA Procurement Regulations (41 CFR 18-9.107-5(d)).

§ 1245.109 Revocation and voidability of waivers.

(a) If the waiver recipient fails to file a domestic or foreign patent application on any waived invention within the prescribed time periods, or decides not to continue prosecution of any such patent application, or to pay any of the required maintenance fees, or for any reason decides not to retain title to any such patent application or any patent issued thereon, the waiver recipient shall notify the Chairman and shall, upon request, convey to NASA the entire right, title and interest in the invention, and to any corresponding patent application or patent. The conveyance shall be made by delivering to the Chairman duly executed instruments (prepared by the Government) and, if applicable, such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention and any corresponding patent application, and to enable the Government to prosecute the application. In addition, any waiver of rights (domestic or foreign) shall be voidable as set forth in paragraphs (b)-(d) of this section.

(b) With respect to any particular invention, each waiver of domestic rights shall be voidable at the option of the Administrator unless:

(1) Within 6 months from the date of reporting an invention under a contract, subject to a waiver granted pursuant to § 1245.104 or 6 months from the date of the granting by the Administrator of a waiver pursuant to § 1245.105, or such longer periods as may be approved by NASA for good cause shown, the waiver recipient causes an application for U.S. Letters Patent to be filed disclosing and claiming the invention and shall include as the first paragraph of the specification following the abstract, the statement:

The invention described herein was made in the performance of work under NASA Contract No. ---------- and is subject to the provisions of section 305 of the National Aeronautics and Space Act of 1958 (72 Stat. 435; 42 U.S.C. 2457).

(2) Within 2 months after such filing or within 2 months after the date of the grant of waiver if such patent application previously has been filed, the waiver recipient delivers to the Chairman a copy of such application including the filing date and serial number.

(3) Within 6 months after such filing, or within 6 months after the grant of waiver if a patent application has been previously filed, the waiver recipient delivers to the Chairman a duly executed and approved instrument prepared by the Government, fully confirmatory of all the rights to which the Government is entitled, and provide the Administrator an irrevocable power to inspect and make copies of the patent application.

(4) The waiver recipient furnishes to the Chairman a copy of the patent within 2 months after the patent is issued on such application.

(5) The waiver recipient notifies the Chairman not less than 30 days before the expiration of the initial response period for any action required by the Patent and Trademark Office of any decision not to continue prosecution of the application and delivers to the Chairman executed instruments granting the Government a power of attorney to prosecute the application.

(6) The waiver recipient grants any license which the Administrator may require pursuant to § 1245.107.

(7) The waiver recipient files a utilization report with the Board, upon NASA's written request, not more often than annually. Such report shall set forth in detail the steps taken by the waiver recipient or its transferee regarding the progress, development, application, and commercial use being made and that is intended to be made of the waived invention.

(8) The waiver recipient notifies the Chairman in not less than 60 days prior to any transfer of principal rights in such invention to any party, and submits a statement of the transferee's development and commercialization plans to bring the invention to the point of practical application. Such statement should accompany the notification or it may be submitted in not less than 30 days prior to the transfer of rights. The statement must show to the Board's satisfaction that the property rights left in the transferee will increase the likelihood that the benefits of the invention would be made readily available to the public at an early date.

(9) The waiver recipient complies with any other terms and conditions called for by the Administrator with respect to the grant of the petition.

(c) With respect to any particular invention, each waiver granted shall be voidable at the option of the Administrator if a patent claiming such invention is held, in a final determination, to have been used in violation of the antitrust laws in any suit, action, or proceeding brought before a properly constituted authority authorized to hear such matters.

(d) With respect to any particular invention, waiver of foreign rights as to any foreign country shall be voidable at the option of the Administrator unless:

(1) A patent application is filed in the country within 8 months from the date a corresponding U.S. application is filed, or 6 months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited for security reasons, or such longer periods as may be expressly approved by the Administrator;

(2) The waiver recipient furnishes to the Chairman the identifying serial number and filing date of each foreign patent application filed promptly upon receipt thereof; and, upon request, a copy of an English version of the foreign application without additional compensation and a copy of the foreign patents;

(3) The waiver recipient executes and furnishes to the Chairman instruments fully confirmatory of the rights herein reserved by the Government; and

(4) The waiver recipient, in the event it elects not to continue prosecution of any foreign application filed on such invention or if it intends to abandon a foreign patent by the nonpayment of a maintenance tax, notifies the Chairman within sufficient time to allow assumption of prosecution by the Government, or payment of the maintenance tax, respectively, and delivers to the Chairman such duly executed instruments as are necessary to vest in the Administrator title thereto, including an instrument of assignment.

§ 1245.110 Content of petitions.

(a) General contents and forms. Forms which may be used in petitioning for waiver and for filing utilization reports are available from the NASA Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. Each request for waiver of domestic or foreign rights under § 1245.104, § 1245.105, or § 1245.106 shall be by petition to the Administrator and shall include:

(1) An identification of the petitioner, its place of business and address, an if the petitioner is represented by counsel, the name, address, and telephone number of the counsel;

(2) An identification by number of the pertinent NASA contract or proposed contract;

(3) The nature and extent of the rights rights desired and a citation to the section under which the petition is submitted; and

(4) The signature of the petitioner or its authorized representative, and date of signature.

(b) Petitions for advance waiver § 1245.104. In addition to the information specified in paragraph (a) of this section, each petition for waiver under § 1245.104 shall include:

(1) A copy of the statement of work of the pertinent NASA contract or proposed contract;

(2) A full and detailed statement of facts sufficient to enable the Board to make the findings regarding the contract and the petitioner as specified in § 1245.104 and, if applicable, whether exceptional circumstances of § 1245.104(b) and/or special situations under § 1245.104(d)(2) are present; and

(3) The date of contractor's execution of the contract, if the petition is filed subsequent to contract execution.

(c) Petitions for waiver for identified inventions under § 1245.105. A separate petition shall be submitted for each identified invention except as provided by § 1245.105(a)(2). In addition to the information specified in paragraph (a) of this section, such petition shall include:

(1) The full names of all inventors;

(2) A statement whether a patent application has been filed on the invention, together with a copy of such application if filed; or, if not filed, a complete description of the invention;

(3) If a patent application has not been filed, any information which may indicate a potential statutory bar to the filing of a patent application under 35 U.S.C. 102 or a statement that no bar is known to petitioner to exist;

(4) A full and detailed statement of facts sufficient to enable the Board to make the findings regarding the invention as specified in § 1245.105 (b) or (c);

(5) Where principal rights in the waived invention are to be transferred to another party, a statement identifying such party and its relationship to the petitioner; and

(6) Where the petitioner(s) is the inventor(s), a statement in writing from the contractor that the contractor will not request waiver of rights and authorization of the contractor.

(d) Petitions for waiver of foreign rights under § 1245.106. A petition for waiver of foreign rights may accompany and be a part of a petition for waiver of domestic rights under either § 1245.104 or § 1245.105, or a petition for foreign rights may be submitted independently of any request for domestic rights under § 1245.106(b). In addition to the information specified in paragraph (a) of this section, petition for waiver of foreign rights shall include, where feasible, a denomination of the foreign countries in which petitioner elects to secure or intends to file patent applications, and its plans and intentions to practice and/or license the invention in such countries.

(e) Petitions for waiver under § 1245.103(c). Contents of the petition shall normally be as prescribed by the other Government agency, and petitioner may use any forms provided by such agency.

§ 1245.111 Submission of petitions.

Petitions for advance waiver of domestic rights under § 1245.104 or advance waiver of foreign rights under § 1245.106 presented prior to contract execution must be submitted to the contracting officer. Any such petitions submitted by organizations selected for negotiation of a contract will be processed and forwarded to the Board for consideration as specified in the NASA Procurement Regulations (41 CFR 18-9.109-6(e)). All other petitions shall be submitted directly to the Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. Any waiver petitions submitted under § 1245.103(c) should be submitted directly to the contracting officer.

§ 1245.112 Notice of proposed Board action and reconsideration.

(a) Notice. Except as provided by § 1245.104(e) the Board will notify the petitioner, through the contracting officer for petitions for advance waiver prior to contract execution, and directly for all others:

(1) Whether it proposes to recommend to the Administrator that the petition be:

(i) Granted in the extent requested;

(ii) Granted in an extent different from that requested; or

(iii) Denied.

(2) Of the reasons for any recommended action adverse to or different from the waiver of rights requested by the petitioner.

(b) Request for reconsideration and statements required.

(1) If, pursuant to paragraph (a) of this section, the Board notifies the petitioner that the Board proposes to recommend action adverse to or different from the waiver requested, the petitioner may, within such period as the Board may set, but not less than 15 days from such notification, request reconsideration by the Board.

(2) If reconsideration has been requested within the prescribed time, the petitioner shall, within 30 days from the date of the request for reconsideration, or within such other time as the Board may set, file a statment setting forth the points, authorities, arguments, and any additional material on which it relies.

(3) Upon filing of the reconsideration statement by the petitioner, the petition will be assigned for reconsideration by the Board upon the contents of the petition, the record, and the reconsideration statement submitted by the petitioner.

(4) The Board, after its reconsideration, will notify the petitioner of its proposed recommendation to the Administrator. If the Board's proposed action is adverse to, or different from, the waiver requested, the petitioner may request an oral hearing within such time as the Board has set.

§ 1245.113 Hearing procedure.

(a) If the petitioner requests an oral hearing within the time set, pursuant to § 1245.112(b)(4), the Board shall set the time and place for such hearing and shall so notify the petitioner.

(b) Oral hearings held by the Board shall be open to the public and shall be held in accordance with the following procedures.

(1) Oral hearings shall be conducted in an informal manner, with the objective of providing the petitioner with a full opportunity to present facts and arguments in support of the petition. Evidence may be presented through means of such witnesses, exhibits, visual aids as are arranged for by the petitioner. Petitioners may be represented by any person including its attorney. While proceedings will be ex parte, members of the Board and its counsel may address questions to witnesses called by the petitioner, and the Board may, at its option, enlist the aid of technical advisors or expert witnesses. Any person present at the hearing may make a statement for the record.

(2) A transcript or equivalent record of the proceeding shall be arranged for by the Board. The petitioner shall submit for the record a copy of any exhibit or visual aid utilized during the hearing.

§ 1245.114 Findings and recommendations of the Board.

(a) *Findings of the Board.* The Board shall consider the petition, the NASA contract, if relevant, the goals cited in § 1245.103(a), the effect of the waiver on the objectives of the related NASA programs, and any other available facts and information presented to the Board by an interested party. The Board shall then determine and make, if applicable, each of the specific findings of fact required by § 1245.104, §1245.105, or § 1245.106 under which the petition was submitted. The Board shall document its findings.

(b) *Recommendation of the Board.* (1) Except as provided in § 1245.104(e), after making the findings of fact, the Board shall formulate its proposed recommendation to the Administrator as to the grant of waiver as requested, the grant of waiver upon terms other than as requested, or denial of waiver.

(2) If the Board proposes to recommend, initially or upon reconsideration or after oral hearing, that the petition be granted in the extent requested or, in other cases, where the petitioner does not request reconsideration or a hearing during the period set for such action, or informs the Board that such action will not be requested, or fails to file the required statements within the prescribed time, the Board shall transmit the petition, a summary record of hearing proceedings, if applicable, its findings of fact with respect thereto, and its recommendation to the Administrator.

§ 1245.115 Action by the Administrator.

(a) After receiving the transmittal from the Board, the Administrator shall determine, in accordance with § 1245.103, whether or not to grant any waiver of rights of the petitioner. A waiver pursuant to § 1245.104(b) (2) will be granted only when the Board so recommends.

(b) In the event of denial of the petitioner by the Administrator, a written notice of such denial will be promptly transmitted by the Board to the petitioner. The written notice will be accompanied with a statement of the grounds for denial.

(c) If the waiver is granted by the Administrator, the petitioner shall be sent an original and one copy of an instrument of waiver confirmatory of the conditions and reservations of the waiver grant for his execution. The petitioner shall return the executed copy to the Chairman within 30 days from the grant of waiver. Failure to return such copy within the prescribed time may result in revocation of the waiver of rights granted. Before such action is taken, notice shall be given to petitioner so that it may show cause before the Board why the waiver should not be revoked.

§ 1245.116 Filing of patent applications and reimbursement of costs.

(a) In order to protect the interests of the Government and the petitioner in inventions, a petitioner may file a United States patent application for such inventions prior to the Administrator's determination on a petition for waiver. If an application on an identified invention is filed during the pendency of the petition, or within 60 days prior to the receipt of a petition, NASA will reimburse the petitioner for any reasonable costs of such filing and patent prosecution that may have occurred, provided:

(1) Similar patent filing and prosecution costs are not normally reimbursed to the petitioner as direct or indirect costs chargeable to Government contracts;

(2) The petition is ultimately denied with respect to domestic rights, or with respect to foreign and domestic rights, if both are requested; and

(3) Prior to reimbursement, petitioner assigns the application to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

§ 1245.117 Publication and record of decisions.

The findings of fact and recommendations made to the Administrator by the Board with respect to each petition for waiver shall be recorded and made available to the Public. In addition, selected findings and recommendations of the Board shall be published annually.

A. M. LOVELACE,
Acting Administrator.

[FR Doc.77-14106 Filed 5-17-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1021]

ENVIRONMENTAL REVIEW

Proposed and Interim Rule

CROSS REFERENCE: For an interim rule regarding procedures implementing the National Environmental Policy Act, see FR Doc. 77-14101 appearing in the Rules and Regulations section of this issue.

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM77-1]

JUST AND REASONABLE RATE OF RETURN ON EQUITY FOR NATURAL GAS PIPELINE COMPANIES AND PUBLIC UTILITIES

Extension of Time for Filing Reply Comments

AGENCY: Federal Power Commission.

ACTION: Extension of Time for Reply Comments.

SUMMARY: The Commission is extending the time for filing Reply Comments in the proposed rulemaking proceeding docketed as RM77-1.

DATES: Reply comments must be received on or before June 2, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary (202) 275-4166.

SUPPLEMENTARY INFORMATION: On May 2, 1977, the Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation filed a motion requesting a further extension of time for filing Reply Comments in the rulemaking proceeding noticed October 15, 1976, and published October 22, 1976 (41 FR 46618), in Docket No. RM77-1. The date for filing Reply Comments was last extended to May 2, 1977, by Notice issued March 24, 1977, and published March 31, 1977 (42 FR 17142).

Upon consideration, notice is hereby given that the date for filing Reply Comments is further extended to and including June 2, 1977.

KENNETH F. PLUMB,
Secretary.

MAY 9, 1977.

[FR Doc.77-14191 Filed 5-17-77;8:45 am]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Part 4]

TRADEMARK FORMS

Extension of Comment Period

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Extension of period for receipt of written comments to the notice published May 3, 1977 (42 FR 22378), proposing revision of certain existing forms for trademark cases.

SUMMARY: This notice extends the closing date for the receipt of comments from June 1, 1977, to August 1, 1977, to provide interested persons with an adequate comment period following the reprinting of the FEDERAL REGISTER notice in the Official Gazette (Trademark section) of the Patent and Trademark Office. This reprinting could not be accomplished earlier than May 31, 1977.

DATES: New closing date for written comments: August 1, 1977.

ADDRESSES: Comments may be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. All comments received will be available for public inspection in Room 11E10, Crystal Plaza, Building 3, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Miss Katharine Hancock, Patent and Trademark Office, (703) 557-5380, or by mail addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attn. Miss Katharine Hancock.

Dated: May 10, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved: May 12, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc.77-14110 Filed 5-17-77;8:45 am]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-4]

RECORDATION AND CERTIFICATION OF COIN-OPERATED PHONORECORD PLAYERS

Extension of Comment Periods

AGENCY: Library of Congress, Copyright Office.

ACTION: Advance Notice of Proposed Rulemaking, Extension of Comment Periods.

SUMMARY: This notice extends the periods for initial and reply comments to the notice, published March 30, 1977 (42 FR 16838), requesting informtion to assist the Copyright Office in formulating a tentative regulation pertaining to the recordation and certification of coin-operated phonorecord players under Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law. Requests for extension of time were orally submitted by representatives of the manufacturers and operators of coin-operated phonorecord players, on the grounds that additional time was necessary to collect, assemble and present data on an industry-wide basis. As this proceeding is an information gathering device and it is important to secure data from the manufacturers and operators, we have granted the request. The reply period has also been correspondingly extended.

DATES: Initial comments should be received on or before May 30, 1977. Reply comments on or before June 15, 1977.

ADDRESS: Interested persons should submit five copies of their written comments to: Office of the General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559.

FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553: §§ 116; 702; 708.)

Dated: May 12, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-14143 Filed 5-17-77;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.

DEPARTMENT OF AGRICULTURE

Forest Service

LAND MANAGEMENT PLAN, SAN GABRIEL UNIT—ANGELES NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Management Plan, San Gabriel Unit, Angeles National Forest, California, USDA-FS-R5-DES(Adm)-77-05.

The environmental statement concerns selection of a management plan for the 186,570 acres of National Forest lands known as the San Gabriel Unit of the Angeles National Forest, in Los Angeles and San Bernardino Counties, California. Sixty-two thousand acres within the Unit have been inventoried as "roadless," and 36,137 acres are included in the National Wilderness Preservation System as the San Gabriel Wilderness.

This draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on May 11, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
Regional Forester, U.S. Forest Service, Rm. 529, 630 Sansome Street, San Francisco, California 94111.
Forest Supervisor's Office, Angeles National Forest, 150 S. Los Robles, Pasadena, California 91101.
Forest Service, District Ranger, Glendora, California.
Forest Service, District Ranger, Flintridge, California.
Forest Service, District Ranger, Parblossom, California.

Copies are also available for review at public libraries in Pasadena, Altadena, Claremont, La Verne, San Dimas, Duarte, Monrovia, Azuza, Glendora, Sierra Madre, Palmdale, and Lancaster, California. A limited number of single copies are available, upon request, from Forest Supervisor, Angeles National Forest, 150 S. Los Robles, Pasadena, CA 91101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effect for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor William T. Dresser, Angeles National Forest, 150 S. Los Robles, Pasadena, California 91101. Comments must be received within 60 days after transmittal to CEQ in order to be considered in the preparation of the final environmental statement.

DOUGLAS R. LEISZ,
Regional Forester.

MAY 11, 1977.

[FR Doc.77-14171 Filed 5-17-77;8:45 am]

USE OF HERBICIDES ON NATIONAL FORESTS OF ALASKA

Availability of the 1977 Final Addendum to the 1975 Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final addendum to the 1975 Final Environmental Statement on the use of herbicides on the National Forests of Alaska, USDA-FS-R10-FES(Adm)-75-03.

The action proposed by this statement concerns vegetation control with the use of herbicides on road, railroad and power line rights-of-way through the Chugach and Tongass National Forests in Alaska.

This final addendum was transmitted to CEQ on May 6, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agricultural Building, Room 3231, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Alaska Regional Office, Federal Building, Juneau, Alaska 99802.
Forest Supervisor, Chugach National Forest, Suite 230, 2221 E. Northern Lights Blvd., Anchorage, Alaska 99504.
Forest Supervisor, Tongass National Forest, Chatham Area, Federal Building, Sitka, Alaska 99835.
Forest Supervisor, Tongass National Forest, Ketchikan Area, Federal Building, Room 313, Ketchikan, Alaska 99901.
Forest Supervisor, Tongass National Forest, Stikine Area, Federal Building, Petersburg, Alaska 99833.

A limited number of copies are available upon request to the Regional Forester, U.S. Forest Service, P.O. Box 1628, Juneau, Alaska 99802.

Copies of this final addendum have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

CARL W. SWANSON,
Environmental Coordinator,
Alaska Region.

MAY 6, 1977.

[FR Doc.77-14172 Filed 5-17-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Deletion of Systems of Records

Notice is hereby given that the Department of Agriculture, in accordance with 5 U.S.C. 552a(e) (4) and (11), proposes to delete two systems of records that do not contain personal information about individuals. The deleted systems are USDA/ASCS-1, Acknowledgement of Responsibility for Docket Security and USDA/ASCS-32, Warehouse Business Agents. Both systems were initially established as a result of misinterpreting the Privacy Act requirements. System USDA/ASCS-1 contains only an individual's signature on a card whereby the individual acknowledges that he understands his responsibility for maintaining docket security. System USDA/ASCS-32 only contains information relating to corporations, businesses, and firms. The systems notices were previously republished on September 14, 1976 at 41 FR 39205 and 41 FR 39217 respectively. The delegations will be effective May 18, 1977.

Dated: May 12, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-14142 Filed 5-17-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30660; Order 77-5-63]

AMERICAN AIRLINES, INC. AND EASTERN AIR LINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of May, 1977.

By tariff revisions[1] marked to become effective May 15, 1977, American Airlines, Inc. (American) and Eastern Air Lines, Inc. (Eastern) propose to increase normal fares in the U.S. mainland-Puerto Rico/Virgin Islands market by three percent for travel on and after June 1, 1977. Eastern first filed with an effective date of May 1, 1977 (which was subsequently postponed to May 15), bas-

[1] Revisions to American Airlines, Inc., Tariff C.A.B. No. 244, and Eastern Air Lines, Inc., Tariff C.A.B. No. 448.

ing its proposal on combined carrier results for the year ended June 30, 1976, as set forth in Order 76-12-96, adjusted for cost inflation to the proposed tariff effective date. In addition, it proposes to modify the return on investment (ROI) calculation to reflect an adjustment in passenger-fare yield and other revenues as discussed below. American has matched Eastern's filing. It has combined its results with those of Eastern for calendar year 1976; has applied the established ratemaking adjustments; and has computed that a three-percent increase in normal fares will result in an ROI for this ratemaking entity of 11.87 percent.

Eastern contends in its justification that several modifications should be made to the ratemaking adjustments employed in reviewing entity ROI. First, it states that, in developing a new fare structure in Order 76-12-96, full-fare passenger yield was overstated because it did not reflect the dilution caused by travel at joint fares, and by traffic moving through the entity to international points beyond San Juan. The carrier alleges that based upon an internal survey for the month of January 1977, the passenger yield used in Order 76-12-96 was overstated by slightly more than one percent. It contends that this adjustment translates into an additional 1.9-percent fare increase over and above a two-percent increase warranted by results, as currently adjusted.

The second point raised by Eastern relates to "other revenues," which are offset against total expenses to obtain passenger operating expense. The carrier states that 32.4 percent of these revenues are passenger-related,[2] so that, when assuming a traffic decline due to the effect of a fare increase, (i.e., application of the demand elasticity factor), it is reasonable to assume a reduction in these particular passenger-related "other revenues." Eastern has computed the change in "other revenues" to be $266,000 for the industry for the year ended June 30, 1976. The net effect is to reduce ROI three one-hundredths of one percent.

Finally, Eastern argues that the nonfuel cost inflation factor it has used is actually understated since it is based upon an "artificially" depressed level of expenses during the latter half of fiscal 1976, which was created by the wage freeze the carrier put in effect during 1976. While it does not attempt to make an adjustment for this factor, it nevertheless contends that the wage freeze should be recognized in determining the nonfuel inflation factor.

The Commonwealth of Puerto Rico (Commonwealth) has filed a complaint against Eastern's proposal alleging that the request is inadequate and improper since it is based on costs for the year ended June 30, 1976, which are now outdated. It also contends that there is no basis for recognizing IATA Caribbean traffic moving on low promotional-fare yields as full-fare traffic for ratemaking purposes, and that this traffic should be treated like other promotional-fare traffic and made subject to the discount-fare adjustment. With respect to the "other revenue" adjustment, the Commonwealth contends that Eastern has provided no evidence to support the conclusion that certain of these revenues will decrease if fares increase.

Upon consideration of the filings, the complaint, and all other relevant matters, the Board has determined that the complaint does not set forth sufficient facts to warrant investigation and the request therefor, and consequently the request for suspension will be denied and the complaint dismissed.

In keeping with the Board's decision in the *Mainland U.S.-Puerto Rico/Virgin Islands Fares* case that all markets should comprise a single ratemaking entity (except with respect to application of the load factor standards), the combined results of the carriers for calendar year 1976 have been adjusted to reflect established ratemaking standards to determine return on investment from operations in this entity with the requested three-percent increase. Included in our calculation are annualization of past fare increases and the application of a cost inflation factor to bring costs forward to the fare application date of June 1. A minor modification in the computation related to application of the −0.7 elasticity factor has also been made, as is discussed below. The final result reflects an adjusted ROI of 11.94 percent with the requested increase.[3] Accordingly, we will permit the proposed increase to become effective. (See Appendix A. Appendix A filed as part of the original document.)[4]

One of the most significant changes which has occurred in this operating entity since the Board's last review of ROI is the increase in fuel cost which American has experienced this year. American's average fuel cost per gallon for calendar year 1976 was 24.39 cents—well below Eastern and atypically low for the industry in general. Beginning in January, however, American's fuel costs has risen sharply, to the point that by March it was 33.41 cents per gallon compared with 35.83 cents for Eastern. In keeping with the established practice of projecting fuel cost forward to the fare-effectiveness date, the Board has estimated that fuel cost per gallon will increase one cent from March to June, based upon Eastern's average monthly increase over the period October 1976-March 1977. We have concluded that American's experience for the past six months should not be combined with that of Eastern for purposes of determining a trend because of the very significant increase American has experienced over this period.[5]

Eastern contends that two "adjustments" in the standard ROI computation should be made. The first relates to an alleged overstatement of passenger yield created by the failure to account for joint-fare traffic and traffic originating at or destined to foreign points when the present fare structure was established in January 1977, pursuant to the Board's decision in the formal proceeding. Had adequate data been available at that time it would have been appropriate to adjust for revenue dilution as Eastern alleges.[6]

Accordingly, the fare structure and level were predicated upon the carriers' combined cost of operations plus return on investment, without reference to actual revenue. However, an adjustment for dilution would have been appropriate to insure that actual (i.e., diluted) revenues would cover cost plus return on investment. The ROI analysis undertaken here, however, is not concerned with establishing a fare structure, but rather is concerned only with overall revenue need. Consequently, the traditional ROI analysis, which uses as its starting point actual cost and revenue, has been followed. As a result, revenue dilution caused by joint-fare travel and the domestic portion of international trips is reflected both in actual revenues and in the amount of additional revenue required to cover cost plus return on investment as of the tariff effective date. In summary, the analytical technique used for determining the fare structure this past January was different from that here used to determine revenue need. While a dilution adjustment would have been appropriate in the former instance, it is, in effect, built into the latter. Consequently, the dilution adjustment suggested by Eastern would constitute a double adjustment, and would overstate revenue need.

The second "adjustment" proposed by Eastern concerns that part of "other revenue" related to passenger travel, as described earlier. In the Board's opinion, this adjustment is reasonable and should be made. The rationale behind applying the −0.7 elasticity factor in the case of a fare increase is that a certain amount of traffic will be "lost" because of the increase. There are other categories of revenue which have historically been associated with the volume of traffic carried. It is only reasonable to assume that, if this volume decreases, these revenues would also decrease. In the present case the adjustment which we have made has an extremely small effect upon ROI—re-

[2] The categories of passenger-related "other" revenue are net liquor revenue, excess baggage revenue, and reservation-cancellation revenue.

[3] As indicated at the outset, Eastern proposes to increase only normal fares at this time. While such a decision has no impact on determining adjusted ROI since the discount-fare adjustment "normalizes" discount-fare revenues, we question the logic of not increasing discount fares at the same time normal fares are increased if, as alleged, current revenues are deficient.

[4] The details of the Board's analysis will be available for public inspection in the Public Reference room, Room 710, Monday, May 16, 1977.

[5] In this connection we note that American has used the latest fuel data it had available at the time of filing, which was for the month of February 1977.

[6] This was not an error of omission, but simply the fact that the carriers had supplied no data to indicate the extent of this dilution.

ducing it by three one-hundredths of one percent.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. The complaint in Docket 30660 be and hereby is dismissed; and 2. A copy of this order be served upon American Airlines, Inc., Eastern Air Lines, Inc., and the Commonwealth of Puerto Rico.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14195 Filed 5-17-77;8:45 am]

[Docket No. 30880; Order No. 77-5-62]

VARIOUS CARRIERS

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of May, 1977.

By tariff revisions marked to become effective either May 15 or June 1, 1977, all trunkline and local service carriers propose a two-percent increase in the level of passenger fares within the 48 States and the District of Columbia.[1] In support of this proposal, the carriers assert that additional revenue is necessary to counter continuing inflationary pressures, particularly rapidly rising fuel costs.

The carriers have generally followed the methodology used by the Board in its analysis of the fare increase proposed in January 1977 (Order 77-1-93), and have based their analyses on data for the year ended September 30, 1976 brought forward to May 15, 1977. Continental and National contend that costs should be projected beyond the tariff effective date.[2] Additionally, American and Eastern argue that the utilization adjustment is unwarranted since there is nothing abnormal about current utilization levels. However, all contend that a two-percent general increase is justified under the Board's present ratemaking methodology.

The National Passenger Traffic Association, Inc. (NPTA) has filed a complaint against use of results for the year ended September 30, 1976 as the basis for the carrier's ROI analyses, and contends that there is no basis for permitting any fare increase in the absence of a careful and thorough review of results for calendar year 1976. NPTA further urges that, in view of the continuing failure of the trunklines to reduce controllable costs and their continuing pursuit of discount fare pricing policies, no further increase should be permitted at this time.

The answering carriers state that they have, in fact, used the latest data available at the time of filing.[3] Additionally, they argue that NPTA's contention that the carriers' have failed to control costs is unfounded, and that their discount policies are fully consistent with the *DPFI* methodology.

Upon consideration of the proposals, the complaints and answers thereto, and all relevant matters, the Board concludes that the proposal may be unjust, or unreasonable, or unjustly discriminatory, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Based upon the most current data now available, that for calendar year 1976, the computed ratemaking ROI as of May 15, 1977 (the earliest tariff effective date), is 11.3 percent after adjustment for utilization, standard seating, the 55-percent load-factor standard, removal of discount fares, and annualization of past fare increases and cost increases. Adjusting the ROI to reflect the proposed two-percent fare increase results in a ratemaking ROI of 13.2 percent.

The argument advanced by Continental and National that costs should be projected beyond the tariff effective date was thoroughly addressed by the Board in Order 77-1-93, January 14, 1977, at which time the Board concluded that this revision should not be reflected in the evaluation of revenue need. No new information or argument not previously considered by the Board has been presented here and we will not, therefore, readdress the issue. With regard to the allegation of American and Eastern that the utilization adjustment should be terminated, the Board is continuing its consideration of this matter and is not prepared at this time to change its approach. In any event, eliminating the utilization adjustment would not alter our disposition of this proposal.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. An investigation be instituted to determine whether the fares and provisions described in Appendices B[4] and C[4] attached hereto, and rules, regulations and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix B[4] hereto are suspended and their use deferred to and including August 12, 1977, and the fares and provisions described in Appendix B hereto are suspended and their use deferred to and including August 29, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Dockets 30612 and 30720 are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order will be filed with the aforesaid tariff and served upon all scheduled certificated carriers operating between points within the 48-contiguous States and the District of Columbia.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14197 Filed 5-17-77;8:45 am]

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[1] Revisions to Airline Tariff Publishing Company, Agent, C.A.B. No. 259.

[2] See Order 77-1-93, January 14, 1977, for a thorough discussion by the Board of recognizing anticipatory cost in its ratemaking evaluations.

[3] American, Eastern, Trans World, and United submitted answers to NPTA's complaint.

[4] Appendices filed as part of original.

[Order 77-5-60, Docket 27573, Agreement C.A.B. 26469]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Cargo Rate Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of May, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA).

The agreement would establish proportional rates for the U.S. interior points Denver, Salt Lake City, and Wichita at 29 cents per kg. over Los Angeles for use with specified North/Central Pacific general cargo rates. The rates are not out of line with other North/Central Pacific proportionals approved by the Board, and will be approved herein.

The Board, acting pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), and 412 thereof, does not find Resolution JT31/JT123(Mail 101)556a incorporated in Agreement C.A.B. 26469 as indicated, to be adverse to the public interest or in violation of the Act:

Agreement C.A.B.	*IATA Resolution*
26469	JT31/JT123(Mail 101)556a

Accordingly, *It is ordered* that:

Agreement C.A.B. 26469 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14194 Filed 5-17-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

SUGAR INDUSTRY

Prospects for Adjustment Assistance for Firms

The Department of Commerce has conducted a study of the firms growing and processing sugar cane and sugar beets pursuant to Section 264 of the Trade Act of 1974. Such a study is required whenever the U.S. International Trade Commission makes an import relief investigation under Section 201 of the Act.

The Commission reported to the President on March 17, 1977, that the domestic sugar industry is being threatened with serious injury by increased imports and recommended that quota restraints be imposed on imports to relieve the threat. The Commission was evenly divided, 3 to 3, over whether the annual import quota applied to imports of sugar, syrup or molasses should be set at 4.275 million short tons or at 4.4 million short tons, raw value. According to Section 202 of the Trade Act, the President shall determine whether to provide import relief and what method and amount of import relief will be provided.

Sugar is produced from the juice of sugar cane and sugar beets. The juice milled from sugar cane is processed into raw sugar, a product consisting of large sucrose crystals coated with molasses, which is the principal "sugar" shipped in world trade. Sugar beets, however, are usually converted directly into refined sugar. Most sugar is for human consumption as a caloric sweetener and for food preservative purposes, but it also is used in livestock feeds and in producing alcohol.

In the United States, about one-third of the sugar consumed goes to household users and two-thirds is for industrial consumption in such products as beverages, bakery and cereal products, confectionery, fruits and vegetables, and dairy products. About 55 percent of the sugar consumed annually in the United States comes from domestic sources (using both sugar beets and sugar cane), and 45 percent comes from cane sugar imports from foreign countries.

The domestic sugar industry is composed of those firms growing, milling, processing, and refining sugar cane and sugar beets. Sugar beets account for 56 percent of the total U.S. production. In the 1976/77 crop year, the United States produced 6.9 million short tons (raw value) of sugar, equal to about 7 percent of the world's production. (The crop year begins at various times of the calendar year depending on the climate of the growing area.)

Sugar beets are currently produced as annual crops in the temperate zones of 18 states, but most of them are grown in 10 states: California, Minnesota, Idaho, Colorado, North Dakota, Washington, Nebraska, Michigan, Wyoming, and Montana. Sugar cane is grown in subtropical areas in Florida, Louisiana, Texas, Hawaii, and Puerto Rico.

In 1976, the leading suppliers of U.S. imports of raw cane sugar were the Dominican Republic, Australia, the Philippines, the West Indies, Peru, and Guatemala. Collectively, they accounted for 69 percent of the 4.66 million short tons of sugar imports. Imported sugar was equivalent to 74 percent of domestic production of cane sugar in 1976.

To be certified eligible to apply for trade adjustment assistance, a sugar grower, processor or refiner must petition the Department of Commerce and demonstrate that increased imports of articles "like or directly competitive with those produced by the firm" contributed importantly to declines in the firm's sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for certification at any time regardless of a prospective Commission finding or its results. For firms in the sugar industry that are considering petitioning for certification, the first requirement of the qualifying criteria probably is met, since U.S. imports of sugar increased in 1976 over 1975.

As of the date of this report, no petitions have been filed by firms in the sugar industry seeking certification to apply for adjustment assistance. The likelihood of any firm in the industry being able to meet the qualifying criteria for certification would depend on a number of unknown factors which could vary considerably in individual cases.

The Department is unable to estimate the number of firms that are "likely to be certified as eligible for adjustment assistance." However, if any firms do submit petitions, they would most likely be from independent sugar cane and sugar beet growers. The growers would have to submit relevant data for their entire operations. In the case of sugar beet growers, the sugar beet harvest may only represent a small portion of their total farm output and total sales. Growers of sugar cane, on the other hand, generally grow only the one crop on their farms.

Sugar cane millers and sugar beet processors all are often associated with the growers. For certification purposes, all of the affiliated operations would have to be examined in order to determine if the firm meets the requisite criteria.

The sugar cane refiners, most of which are affiliates of large corporations, are least likely to qualify for certification. These refiners also import the bulk of the raw cane sugar from foreign countries. The sugar-refining segment is the largest component of the total sugar industry as far as sales and profits are concerned.

Under the program of adjustment assistance for firms authorized by the Trade Act and administered by the Economic Development Administration ("EDA") in the Department of Commerce, financial assistance to a certified firm may take the form of direct loans and loan guarantees, and technical assistance, to enable a firm to establish a competitive position in the same or a different industry. Financial assistance may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

The Trade Act also provides for certification of communities located in trade-impacted areas or in areas where a firm or subdivision has transferred to a foreign country.

Certified communities are eligible for public works, grants, loans, and loan guarantees—all of which can be directed towards assisting affected firms. Under the Public Works and Economic Development Act of 1965 ("PWEDA"), as amended, direct and indirect assistance to firms is available without Trade Act certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit indirectly from grants to the designated places and related entities for financing public works, and directly from business development loans and guarantees. Under PWEDA, neither loans nor guarantees can be used to assist firms in industries found to have long-term overcapacity. However, PWEDA does authorize technical assistance to firms regardless of location, and grants of loanable funds to communities with actual or threatened unemployment.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has programs of both farm ownership loans and farm operating loans that could benefit sugar growers which operate family farms. Processors or refiners may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries characterized by long-term overcapacity.

The Small Business Administration ("SBA") administers two programs of potential assistance to small firms: a business loan program of direct, participating, and guaranteed loans; a management assistance program for small businesses; and a loan program for local development companies. Eligibility is limited to independently owned and operated firms that are not dominant in their field and do not have over 500 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

Additional information about the adjustment assistance program and copies of the report Prospects for Adjustment Assistance for Firms in the Sugar Industry, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Depart-

ment of Commerce, Washington, D.C. 20230, telephone 202-377-5113.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-14151 Filed 5-17-77;8:45 am]

INDUSTRY PRODUCING TELEVISION RECEIVERS AND SUBASSEMBLIES THEREOF

Prospects for Adjustment Assistance for Firms

The Department of Commerce has conducted a study of the firms in the industry producing television receivers and subassemblies pursuant to Section 24 of the Trade Act of 1974. Such a study is required whenever the U.S. International Trade Commission makes an industry investigation under Section 201 of the Act.

In its report on March 22, 1977, the Commission determined (by a 6 to 0 vote) that increased imports of color television receivers are causing or threatening to cause serious injury to the domestic industry. Three of the Commissioners also determined that monochrome television receiver imports, and certain subassemblies of both color and monochrome television receivers, are causing serious injury to the domestic industry. Five of the Commissioners recommended higher tariffs on imported receivers as import relief for U.S. television manufacturers, and one recommended quantitative restrictions as the appropriate remedy. Three of the Commissioners recommending higher duties included both color and monochrome television receivers in their remedy recommendations, while the remaining Commissioners only included color sets. According to Section 202 of the Trade Act, the President shall determine whether to provide import relief and what method and amount of import relief will be provided.

The number of firms producing television receivers in the United States declined from 15 in 1971 to 12 in 1976, four of which are owned by foreign firms. All 12 firms produced color receivers in 1976, but only seven produced monochrome sets. The two largest domestic producers accounted for more than 50 percent of total output of color receivers within the U.S. during 1976, while three other firms accounted for less than two percent. In addition to their domestic production facilities, many of the large U.S. firms have established plants in foreign countries to manufacture various components and to assemble television receivers.

Total average employment in the television receiver industry increased during the first nine months of 1976, reversing a trend of falling employment which had characterized the industry since 1971. Estimated shipments of domestically-produced television receivers increased in 1976 by more than three percent to 7.7 million units, while imports amounted to almost 7.8 million units, an increase of 86 percent. Although a majority of the Commissioners concluded that firms producing components and subassemblies should be considered as a part of the television receiver industry, the Commission did not collect data from those firms.

To be certified eligible to apply for trade adjustment assistance, a firm must petition the Department of Commerce and demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for certification at any time regardless of a prospective Commission finding or its results. For firms in the television receiver industry that are considering petitioning for certification, the first requirement of the qualifying criteria apparently has been met, since U.S. imports of receivers increased in 1976.

As of the date of this report, no firms in the industry producing television receivers have petitioned for certification of eligibility to apply for adjustment assistance. However, based upon the data obtained by the Commission during its investigation and made available to the Department, only two of the 12 domestic firms appear to meet the Trade Act criteria of absolute declines in either total sales or total production, and employment. Moreover, it appears unlikely that either firm could establish that imports contributed importantly to those declines.

The same criteria would be applicable for those firms manufacturing components or subassemblies for television receivers that are considering petitioning the Department for certification. However, such firms must establish that imports of items like or directly competitive with the components they are producing, not television receivers, have increased and have contributed importantly to their declines. Because there is no data available for producers of subassemblies, the Department is unable to determine the number of firms in this industry segment that are likely to be certified eligible.

Under the program of trade adjustment assistance for firms authorized by the Trade Act and administered by the Economic Development Administration ("EDA") in the Department of Commerce, a certified firm may apply for adjustment assistance to carry out its recovery plan. However, the fact that a firm is certified does not imply that such assistance will be furnished. That decision will depend upon whether the firm's adjustment proposal meets all of the statutory criteria essential for approval. Adjustment assistance may consist of financial assistance, technical assistance, or both. Financial assistance, in the form or direct loans or loan guarantees, may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for amanagement and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

The Trade Act also provides for certification of communities located in trade-impacted areas or in areas where a firm or subdivision has transferred to a foreign country. Certified communities are eligible for public works grants, loans, and loan guarantees—all of which can be directed towards assisting affected firms. Under the Public Works and Economic Development Act of 1965 ("PWEDA"), as amended, direct and indirect assistance to firms is available without Trade Act certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit indirectly from grants to the designated places and related entities for financing public works, and directly from business development loans and guarantees.

Under PWEDA, neither loans nor guarantees can be used to assist firms relocating from one area to another or to expand production in an industry found to have long-term overcapacity. However, even though an industry is characterized by long-term overcapacity, firms in that industry may obtain assistance under PWEDA for purposes of assuring the retention of existing capacity and employment. Moreover, PWEDA does authorize technical assistance to firms regardless of location and grants of loanable funds to communities with actual or threatened unemployment.

The Small Business Administration ("SBA") administers three programs of potential assistance to firms adversely affected by imports: a management assistance program for small business; a loan program for local development companies; and a business loan program of direct, participating, and guaranteed loans. Eligibility is limited to independently owned and operated firms that are not dominant in their field and do not have over 750 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has two programs that could benefit firms affected by imports. Some companies may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries found to have long-term overcapacity. FmHA also can make grants and loans to public bodies, such as local development organizations and governments, in areas other than cities of over 10,000 population. These funds can be used for public works projects, such as utility extensions and access roads, that would benefit industry.

Additional information about the adjustment assistance program and

copies of the report Prospects for Adjustment Assistance for Firms in the Industry Producing Television Receivers and Subassemblies Thereof, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5113.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-14152 Filed 5-17-77;8:45 am]

Patent and Trademark Office

PUBLIC ADVISORY COMMITTEE FOR TRADEMARK AFFAIRS

Open Meeting

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

The Public Advisory Committee for Trademark Affairs will meet from 10 a.m. until noon on June 8, 1977 in the Commissioner's Conference Room at the Patent and Trademark Office, 2021 Jefferson Davis Hwy., Crystal Plaza Building 3, Arlington, Virginia 22204 and from 2 p.m. until 5:30 p.m. at the National Lawyers Club, 1815 H St., NW., Washington, D.C. 20006, The Hughes Room. The Committee will also meet on June 9, 1977 at 9 a.m. at the National Lawyers Club in the Opinion and Decision Room.

The Committee was established in 1970 to advise the Patent and Trademark Office on steps which can be taken in order to increase the efficiency and effectiveness of the administration of the Trademark Act and to provide a continuing source of knowledge from the private sector to the government in the field.

The agenda for the meeting is:

(1) Introductory Remarks.
(2) Computerization Study.
(3) Report on Patent and Trademark Office Activities.
(4) Mutliple Class Applications.
(5) Inter Partes Rules of Practice.
(6) Petitions to the Commissioner.
(7) Assignments.
(8) Retention of Patent and Trademark Office Files.
(9) Pendency of Trademark Applications.
(10) Letters of Protest.

The meeting will be open to public observation; approximately 15 seats will be available for the public on a first come-first served basis. If time permits, oral comments by the public of 3 minutes on each topic within the above agenda items will be allowed. To insure proper consideration at the meeting, any comments or suggestions relating to the agenda items should be submitted in writing before June 3. Further comments and suggestions will be accepted after the meeting on any of the matters discussed.

Copies of the minutes will be available upon request 90 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Patricia M. Davis, Office of Trademark Program Control, Room 11C17 Crystal Plaza Building 3, Telephone: 703-557-3881.

Dated: May 11, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved: May 11, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc.77-14109 Filed 5-17-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON AND MAN-MADE TEXTILE PRODUCTS FROM THE PHILIPPINES

Increasing the Import Levels

MAY 16, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels for certain cotton and man-made fiber textile products exported from the Philippines during the twelve-month period which began on October 1, 1976.

SUMMARY: Paragraphs 8 and 9(a)(i) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975 between the Governments of the United States and the Republic of the Philippines provide for increases in specific category ceilings to allow for flexibility and the carryover of shortfalls in those categories from the previous agreement year. At the request of the Government of the Philippines, pursuant to either one, or both, of the foregoing provisions of the bilateral agreement, the import restraint levels for Categories 39, 45/46/47, 49, 50, 51, 224, 229, 235, and 237 are being increased for the agreement period which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On September 27, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 42234), which established import restraint levels for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the Philippines and entered or withdrawn from warehouse for consumption in the United States during the twelve-month period which began on October 1, 1976. In the letter published below the Commissioner of Customs is directed to increase the twelve-month levels of restraint previously established for Categories 39, 45/46/47, 49, 50, 51, 224, 229, 235, and 237 to the amounts indicated.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

MAY 16, 1977.

DEAR MR. COMMISSIONER: On September 22, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977 of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Philippines in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 8 and 9(a)(1) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on May 19, 1977, the levels of restraint previously established for Categories 39, 45/46/47, 49, 50, 51, 224, 229, 235 and 237 to the following amounts:

Category:	*Amended 12-mo. level of restraint*[1]
39	476,896 doz. pairs
45/46/47	4,419,100 yd[2] equivalent.
49	50,504 doz.
50	126,260 doz.
51	122,481 doz.
Pt. 224[2]	114,490 lb.
Pt. 224[3]	114,490 lb.
229	252,520 doz.
235	37,878 doz.
237	227,268 numbers.

[1] The levels of restraint have not been adjusted to reflect any entries made after Sept. 30, 1976.

[2] (Only T.S.U.S.A. Nos. 380.0420 and 380.-8143).

[3] (Only T.S.U.S.A. Nos. 380.0402 and 380.-8103.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975 between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) Within the group limits, specific levels of restraint may be exceeded by 7 percent in any agreement year; (2) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the receiving year's applicable limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton and man-made fiber textile products from the Philippines, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-14234 Filed 5-17-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP 42023B; FRL 729-1]

MARYLAND

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On September 15, 1976, the Maryland State Plan was approved contingent upon promulgation of necessary regulations implementing the legislation. Notice of contingent approval was published in the FEDERAL REGISTER on October 15, 1976 (41 FR 45620). Subsequently, on November 10, 1976 regulations necessary to implement the Maryland legislation were promulgated. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region III, hereby gives notice that the Maryland State Plan is now a fully approved State Plan.

Dated: April 25, 1977.

ALVIN R. MORRIS,
Acting Regional Administrator, Region III.

[FR Doc.77-14097 Filed 5-17-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

MANDATORY OIL PRICING AND ALLOCATION REGULATIONS

Establishment of Task Force on Compliance and Enforcement; Opportunity to Submit Views

On May 13, 1977, the Administrator of the Federal Energy Administration created a Task Force on Compliance and Enforcement to make recommendations for measures to strengthen FEA's enforcement program. The Adminstrator, with the concurrence of the Chairman of the Securities and Exchange Commission, has appointed Mr. Stanley Sporkin of the Securities and Exchange Commission as Chairman of the Task Force. The Task Force will be in existence for a period of 60 days beginning May 13, 1977.

In addition to Mr. Sporkin, the following persons have been appointed as members of the Task Force:

William C. Arntz, Regional Administrator, Region IX, FEA.
Paul L. Bloom, Deputy General Counsel, FEA.
Ralph Ferrara, Executive Assistant to the Chairman, Securities and Exchange Commission.
Gordon W. Harvey, Assistant Deputy Assistant Administrator for Compliance, FEA.
Richard B. Herzog, Deputy Assistant Administrator for Compliance, FEA.
Shelley Kolbert, Special Assistant to the Administrator, FEA.
Avrom Landesman, Assistant General Counsel for Compliance, FEA.
Theodore H. Levine, Assistant Director, Division of Enforcement, Securities and Exchange Commission.
Robert Nordhaus, FEA.
William Taylor, Regional Counsel, Region III, FEA.
Larry White, Regional Director of Compliance, Region VI, FEA.
Robert A. Wolfe, Special Assistant to the Assistant Administrator for Regulatory Programs, FEA.

Jerry L. Pfeffer, Office of Program Integration, ERDA, will serve as Executive Director of the Task Force.

The Administrator has asked the Task Force to make recommendations concerning the following matters:

1. A strategy for the disposition of pending cases.
2. A conceptual design for a compliance and enforcement strategy for the future, addressing the audit coverage to be given to the various types of firms subject to FEA's pricing and allocation regulations.
3. Techniques and procedures for auditing; for example, the use of preliminary audits.
4. Audit, legal and other national and regional staffing needs.
5. Legal support for compliance functions.
6. Communications and allocation of authority between National and Regional offices, between the General Counsel and the Office of Regulatory Programs (at the National and Regional levels), and among different regions.
7. Additional legislation in support of compliance functions.
8. Procedures for investigation of suspected willful violations.

In order to receive the broadest possible range of views, the Task Force solicits comments from the public with respect to the particular subjects enumerated above. Such comments may be in the form of written statements, not to exceed 30 pages (including exhibits). Two copies of the statement should be submitted. Written views should be submitted no later than the close of business on Friday, June 10, 1977, and should be addressed to Mr. Jerry L. Pfeffer, Room 5302, 2000 M Street, NW., Washington, D.C. 20461. Envelopes should be marked "Comments to Task Force." Comments addressing matters not within the agenda specified above are not likely to be considered by the Task Force but will be considered by the FEA staff as part of its ongoing effort to monitor and improve its Compliance Program. The commentator should identify any information in the comment that he or she considers confidential and submit only one copy of that information.

In addition to considering written comments, the Task Force members will interview knowledgeable persons, both inside and outside of FEA, to receive their views orally on the subjects enumerated above. Members of the public who submit comments and who wish to be heard orally by a representative of the Task Force should so state in their written comments. The Task Force will attempt to honor as many requests for meetings as possible. Priority will be given to persons who are spokespersons for groups of other persons, whether formed for the purpose of presenting views to the Task Force, or previously in existence, such as public interest groups, trade associations and professional organizations.

Any questions regarding this notice should be addressed to Jerry L. Pfeffer, Task Force Executive Director, at 202/254-8700.

Issued in Washington, D.C., May 13, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14222 Filed 5-16-77;8:23 am]

STRATEGIC PETROLEUM RESERVE

Availability of a Supplement to the Final Environmental Impact Statement for the Bayou Choctaw Salt Dome Storage Site

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a supplement to the environmental impact statement (EIS) for the Bayou Choctaw salt dome site. The supplement describes the environmental impacts of a proposed change in pipeline siting associated with the Bayou Choctaw storage facility.

The Bayou Choctaw site has been selected as a key element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231 et seq.) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

FEA will allow a minimum of 30 days for interested parties to comment before taking any administrative action with regard to the proposed pipeline alteration. Moreover, FEA will endeavor to comply with any requests (received during the 30-day period) for extensions of

the review period up to a maximum of 15 days.

Single copies of the supplement to the Bayou Choctaw EIS (DES-76/77-4) may be obtained from the FEA; Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Copies of the supplement will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views or arguments with respect to the supplement to Executive Communications, Box MS, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Supplement to the Bayou Choctaw EIS (FES-76-5)." Fifteen copies should be submitted. All comments should be received by FEA by June 17, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., May 13, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-14223 Filed 5-16-77;8:23 am]

FEDERAL ENERGY ADMINISTRATION

ENVIRONMENTAL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat 770), notice is hereby given that the Environmental Advisory Committee will meet Friday, June 3, 1977, at 9 a.m., Room 5041, FEA Headquarters, 12th and Pennsylvania Avenue, NW, Washington, D.C.

The Committee was established to provide advice and information to FEA concerning environmental aspects of FEA policies and programs.

The agenda for the meeting is as follows:

1. Old Business—Report on the Status of Environmental Advisory Committee Recommendations and Requests and FEA Commitments.
2. Report and Recommendations from Energy Conservation Subcommittee on Administration Proposals for Energy Conservation and Energy Pricing.
3. Report and Recommendations from Nuclear Policy Subcommittee on Administration Energy Proposals.
4. Report and Recomendations from OCS/Energy Facility Siting Subcommittee on Administration Energy Proposals.
5. Report and Recommendations from Coal Policy Subcommittee on Administration Proposals to Increase Coal Usage.
6. Report and Recommendations from Air Quality Standards Subcommittee on Administration Energy Proposals.

The following Environmental Advisory Committee Subcommittees will meet Thursday, June 2, 1977 from 2 p.m. until 4:30 p.m.:

Energy Conservation Subcommittee, Room 5041-A, FEA Headquarters to discuss the energy conservation and energy pricing measures proposed by the Administration.

Coal Policy Subcommittee and Air Quality Standards Subcommittee (joint meeting), Room 5041-B, FEA Headquarters to discuss the Administration's proposals for increased coal usage.

The meetings are open to the public. The Chairman of the Committee or Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or a Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Advisory Committee Management Office.

Transcripts of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on May 16, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14255 Filed 5-16-77;11:57 am]

FEDERAL HOME LOAN BANK BOARD

[No. AC-36]

HOMESTEAD SAVINGS AND LOAN ASSOCIATION, SALINA, KANSAS

Notice of Approval of Conversion

(Notice of Final Action)

MAY 13, 1977.

Notice is hereby given that on May 11, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 77-300, approved the application of The Homestead Savings and Loan Association, Salina, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-14193 Filed 5-17-77;8:45 am]

FEDERAL MARITIME COMMISSION

LYKES BROS. STEAMSHIP CO., INC. AND STATES STEAMSHIP CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 7, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10142-3, between the above-named parties, modifies their basic agency agreement by deleting therefrom all the functions performed by States Steamship Company with respect to Lykes Bros. Steamship Co.'s joint rail-water container service in the States of California, Oregon and Washington.

By Order of the Federal Maritime Commission.

Dated: May 13, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14206 Filed 5-17-77;8:45 am]

SOUTH AND EAST AFRICA/USA CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 7, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularly the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Chairman, South and East Africa/U.S.A. Conference, 25 Broadway, New York, New York 10004.

Agreement No. 8054-15, entered into by the member lines of the South and East Africa/U.S.A. Conference, amends various articles of the conference agreement to provide for:

(1) An increase from 30 to 60 days in the notice period required for resignation from the conference;

(2) The selection of a Chairman by the parties and conforming changes throughout the agreement;

(3) The posting of a financial guarantee in the amount of $20,000 against conference obligations;

(4) A description of expenses to be borne and of how they are to be shared; and

(5) The formal authorization for the Chairman to file amendments with the Commission.

By Order of the Federal Maritime Commission.

Dated: May 13, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14205 Filed 5-17-77;8:45 am]

UNITED STATES/SOUTH AND EAST AFRICA CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 7, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Chairman, United States/South and East Africa Conference, 25 Broadway, New York, New York 10004.

Agreement No. 9502-10, entered into by the member lines of the United States/South and East Africa Conference, amends various articles of the conference agreement to provide for:

(1) A decrease from 100 to 60 days in the notice period required for resignation from the conference;

(2) The election of a Chairman other than from among the members and routine alterations to conform the agreement to that change;

(3) The formal authorization for the Chairman to file amendments with the Commission;

(4) A clarification of conference expenses to be shared; and

(5) The posting of a financial guarantee in the amount of $20,000 against conference obligations.

By order of the Federal Maritime Commission.

Dated: May 13, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[For Doc.77-14204 Filed 5-17-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-329]

BOSTON EDISON CO.

Filing

MAY 10, 1977.

Take notice that Boston Edison Company (Edison), on April 28, 1977, tendered for filing a letter agreement dated September 24, 1977 between Edison and Central Maine Power Company extending through October 31, 1978 of an assignment by Edison of its entitlement in electricity produced by The New Brunswick Electric Power Commission.

Edison indicates that copies of this filing were served upon Central Maine Power Company and Maine Electric Power Company, Inc., from which the New Brunswick power is purchased.

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 §§ 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14178 Filed 5-17-77;8:45 am]

[Docket No. CP77-363]

COLUMBIA GAS TRANSMISSION CORP. AND NATIONAL FUEL GAS SUPPLY CORP.

Notice of Application

MAY 11, 1977.

Take notice that on April 28, 1977, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, and National Fuel Gas Supply Corporation (National Fuel), 308 Seneca Street, Oil City, Pennsylvania 16301, (Applicants) filed in Docket No. CP77-363 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to transport on a best efforts basis up to 10,000 Mcf of natural gas per day for UGI Corporation, Gas Utility Division

(UGI); all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport the proposed volumes of gas pursuant to a letter agreement dated March 29, 1977, between Applicants and UGI for 10 years. Applicants indicate that UGI would purchase the gas proposed herein to be transported from Jack L. Henning pursuant to a gas purchase agreement dated March 29, 1977, among UGI, UGI Development Co. and Jack L. Henning, and that the subject gas is local production gas produced in Northwestern Pennsylvania which would be used by UGI partially to offset current and projected curtailments by its pipeline supplier. Applicants further indicate that UGI would pay Jack L. Henning for all gas delivered from wells spudded prior to January 1, 1978, during any given pricing year (April 1to March 30) a total of the following price components, as applicable:

(a) $1.44 per Mcf base price for each pricing year;

(b) $.04 per Mcf for each compression stage for each pricing year;

(c) $.17 per Mcf for extraordinary gathering facilities for each pricing year;

(d) starting in the pricing year April 1, 1978, through March 30, 1979, and every pricing year thereafter, an automatic increase per Mcf reflecting increased value (currently $.04 per Mcf);

(e) starting in the pricing year April 1, 1978, through March 30, 1979, and every pricing year thereafter, an increase, if warranted, to compensate for additional increased value of gas or for increases in operating cost, such amount to be agreed upon by the parties;

(f) a price shall be determined annually on or before April 1 of each year for all gas delivered from wells spudded after January 1, 1978, during pricing years (April 1-March 30) beginning on and after April 1, 1978.

It is stated that the subject gas is to be purchased by UGI at the tailgate of the sellers' plant located in Warrant 3188, Township, Forest County, Pennsylvania, and the local production gas would be delivered for transportation to National Fuel by UGI through existing intrastate facilities at the point of interconnection of UGI's existing 8-inch intrastate pipeline and National Fuel's existing 20-inch Line D in Warren County, Pennsylvania. National Fuel would receive the subject gas from UGI at the proposed point of interconnection in Warren County, Pennsylvania and would transport (by displacement or physical haul) and deliver such volumes to Columbia Transmission, for the account of UGI, at the existing Ellwood City Columbia Transmission-National Fuel delivery point in Beaver County, Pennsylvania, or other mutually agreeable delivery point(s). Applicants state that Columbia Transmission would receive the subject gas from National Fuel at the existing Ellwood City delivery point, or other mutually agreeable delivery point(s) and would transport and deliver volumes up to 10,000 Mcf of natural gas per day (less company-use and unaccounted-for gas, currently estimated at 3.1% of the volumes received) to UGI at existing points of delivery from Columbia Transmission to UGI in southeastern Pennsylvania, to the extent its operating conditions permit, through the utilization of existing facilities.

It is stated that National Fuel proposes to construct, or cause to be constructed, at UGI's expense, requisite metering facilities at the proposed point of interconnection of National Fuel's 20-inch Line D and UGI's 8-inch gathering line in Warren County, Pennsylvania, at an estimated cost of $13,577. Applicants state that initial deliveries of local production gas are estimated by UGI at approximately 1,000 Mcf of natural gas per day and that the purchase contracts contemplate a drilling program under which it is anticipated that up to 6,000 Mcf of natural gas per day would be available to UGI by 1978. UGI contemplates purchasing additional volumes up to 4,000 Mcf of natural gas per day as such volumes become available in the vicinity of its said intrastate facilities, it is said.

National Fuel proposes to charge UGI for such transportation service an amount equal to its average system-wide unit transmission cost, as in effect from time to time, this being 12.94 cents per Mcf, and Columbia Transmission proposes to charge UGI an amount equal to its average system-wide unit storage and transmission costs, exclusive of company-use and unaccounted-for gas, this being 22.21 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 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 Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14183 Filed 5-17-77;8:45 am]

[Docket No. ER77-333]

COMMONWEALTH EDISON CO.

Filing Letter Agreement

MAY 10, 1977.

Take notice that Commonwealth Edison Company (Edison), on April 29, 1977, tendered for filing a proposed letter agreement between Edison and Wisconsin Electric Power Company (Wisconsin Electric). Edison indicates that the proposed agreement provides for the delivery of 190 megawatts of Limited Term Power by Edison to Wisconsin Electric for ten months of a twelve-month period beginning June 1, 1977 under the terms of Service Schedule A of the Interconnection Agreement between the two parties (Commonwealth Edison Company Rate Schedule FPC No. 14). The monthly Capacity Charge is proposed to be $2.15 per kilowatt.

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 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14181 Filed 5-17-77;8:45 am]

[Docket No. ID-1811]

ERNEST D. HUGGARD

Notice of Application

MAY 11, 1977.

Take notice that on May 2, 1977, Ernest D. Huggard of Atlantic City, New Jersey, filed an application with the Federal Power Commission, pursuant to Section 305(b) of the Federal Power Act, seeking authorization to hold the position of Vice-President of Deepwater Operating Company, a New Jersey corporation, in addition to the positions of Vice President-Control and Assistant Treasurer of Atlantic City Electric Company, a New Jersey corporation. Applicant has previously made no other application under Section 305(b) of the Act.

Atlantic City Electric Company is a New Jersey corporation principally en-

gaged in the business of providing electric service to the public throughout the southern part of New Jersey.

Deepwater Operating Company is a New Jersey corporation and its stock is wholly owned by Atlantic City Electric Company. Deepwater Operating Company operates the Deepwater Generating Station at Deepwater, New Jersey, and the Greenwich Station near Gibbstown, New Jersey.

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, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14186 Filed 5-17-77;8:45 am]

[Docket No. ID-1682]

FREDERICK LANGE

Notice of Application

MAY 11, 1977.

Take notice that on May 2, 1977, Frederick Lange of Atlantic City, New Jersey, filed an application with the Federal Power Commission, pursuant to Section 305(b) of the Federal Power Act, seeking authorization to hold the position of Senior Vice-President of Atlantic City Electric Company, a New Jersey corporation, in addition to the position of Vice-President of Deepwater Operating Company, a New Jersey corporation. The Applicant has previously made application under Section 305(b) of the Act to hold positions in Atlantic City Electric Company and Deepwater Operating Company.

Atlantic City Electric Company is a New Jersey corporation principally engaged in the business of providing electric service to the public throughout the southern part of New Jersey.

Deepwater Operating Company is a New Jersey corporation and its stock is wholly owned by Atlantic City Electric Company. Deepwater Operating Company operates the Deepwater Generating Station at Deepwater, New Jersey, and the Greenwich Station near Gibbstown, New Jersey.

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, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14185 Filed 5-17-77;8:45 am]

[Docket No. ER76-785]

MONONGAHELA POWER CO.

Filing of Settlement Agreement

MAY 10, 1977.

Take notice that on May 1, 1977, Monongahela Power Company (Monongahela) tendered for filing to the Presiding Administrative Law Judge two settlement agreements, one between itself and Harrison Rural Electrification Associates, Inc., City of New Martinsville, West Virginia, and City of Philippi, West Virginia (the Customers) and the other between itself and the Potomac Edison Company (Potomac Edison) together with a joint motion to certify the settlement agreements to the Commission for approval.

Monongahela states that under the terms of the proposed settlement agreements, the Company's annual revenues from the Customers and Potomac Edison would be increased by approximately $160,000 in addition to revenues produced by application of local surcharge taxes. The increase is to be effective as of September 15, 1976.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., 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 this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14189 Filed 5-17-77;8:45 am]

[Docket No. ER77-354]

MISSOURI UTILITIES CO.

Tariff and Rate Schedule Changes

MAY 11, 1977.

Take notice that Missouri Utilities Company of Cape Girardeau, Missouri (MUCo), on May 2, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1, and other special contract rates for wholesale electric service rendered to jurisdictional customers within its Southeast Missouri service area. MUCo states that the proposed changes would increase revenues from jurisdictional sales and service by $358,870 based on the 12 month period ending October 31, 1976 and that these changes in rates are proposed to become effective as of June 1, 1977, or at such other time as allowed by the "Rate Redetermination" provision of existing wholesale electric service agreements.

MUCo indicates that the proposed changes in rates are to compensate MUCo for increases in its costs of supplying wholesale electric service within its Southeast Missouri service area.

MUCo further indicates that copies of the filing were served upon MUCo's jurisdictional customers and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal 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 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 application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14184 Filed 5-17-77;8:45 am]

[Docket No. RP77-52]

NORTHERN NATURAL GAS CO.

Petition for Extraordinary Relief

MAY 11, 1977.

Take notice that on April 5, 1977, Northern Natural Gas Company (Northern) filed, pursuant to Section 1.7(b) of the Commission's Rules of Practice and Procedure, a petition for extraordinary relief seeking Commission authorization to provide natural gas service to its existing utility customers in accordance with its presently effective Agricultural Crop drying Service Rate Schedule ACDS-1. Northern seeks authorization to make available, on a best efforts basis volumes of gas for the drying of seed, grain and other agricultural crops during a twelve month period commencing with the date of the order.

On September 28, 1973, the Commission issued an Order at Docket No. CP74-63 granting extraordinary relief permitting Northern to provide natural gas service to its existing utility customers pursuant to a new Agricultural Crop Dryer Service, Rate Schedule ACDS-1. The Commission order authorized Northern to provide natural gas service to its existing utility customers up to a maximum of 750,000 Mcf for a six month period. Similar approval has been granted to Northern at Docket No. RP75-12-1, Docket No. RP75-12-3, and Docket No. RP76-105-1.

Northern estimates that it will have available for sale under the ACDS-1 Rate Schedule a total of 750,000 Mcf for the period September 15, 1977 through March 15, 1978. Volumes under ACDS-1 will be made available by Northern on a best efforts basis pursuant to advance operating arrangements on a daily basis.

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, 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 31, 1977. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14190 Filed 5-17-77;8:45 am]

[Docket No. ER77-336]

OKLAHOMA GAS AND ELECTRIC CO.

Filing of Wholesale Electric Service Agreements

MAY 11, 1977.

Take notice that Oklahoma Gas and Electric Company (OG&E), on April 29, 1977, tendered for filing Electric Service Agreements for wholesale service for the Cities of Pond Creek, Purcell, Tonkawa and Waynoka, Oklahoma, Clarksville, Arkansas, the Town of Okeene, Oklahoma, Cimarron Electric Cooperative, Incorporated, and Red River Valley Rural Electric Association. OG&E indicates that the proposed Electric Service Agreements cancel and supersede existing contracts presently on file with the Commission. The proposed effective dates are June 1, 1977, for Tonkawa and Okeene, June 13, 1977, for Waynoka, July 1, 1977, for Purcell and Clarksville, July 11, 1977, for Red River Valley Rural Electric Association, and July 27, 1977, for Pond Creek and Cimarron Electric Cooperative, Incorporated.

OG&E states that copies of the proposed Electric Service Agreements have been mailed to Pond Creek, Purcell, Tonkawa, Waynoka, Okeene, Clarksville, Cimarron Electric Cooperative, Incorporated, Red River Valley Rural Electric Association, the Corporation Commission of the State of Oklahoma, and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal 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 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 application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14179 Filed 5-17-77;8:45 am]

[Docket No. ER77-335]

PUBLIC SERVICE CO. OF OKLAHOMA

Notice of Cancellation

MAY 11, 1977.

Take notice that Public Service Company of Oklahoma on April 29, 1977 tendered for filing a notice of Cancellation of the Letter Agreement dated June 1, 1977, Supplement to Rate Schedule FPC 181 between Public Service Company of Oklahoma (Oklahoma) and the Empire District Electric Company. Oklahoma indicates that this Cancellation is to be effective as of May 31, 1977.

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

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14182 Filed 5-17-77;8:45 am]

[Docket No. ER77-355]

SOUTHERN CALIFORNIA EDISON CO.

Tariff Change

MAY 10, 1977.

Take notice that Southern California Edison Company (Edison) on April 29, 1977 tendered for filing a change of rate for interruptible transmission services under the provisions of Edison's agreement with San Diego Gas & Electric Company as embodied in Rate Schedule FPC No. 86. Edison indicates that the new rate for these services is 1.45 mills per kilowatthour. Edison indicates that this is an increase of .02 mills per kilowatt. Edison further indicates that said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison, the rate for interruptible transmission service shall be adjusted based on said new rate of return and that said new rate of return was authorized in CPUC Decision 86794.

Edison requests a waiver of the Commission's notice requirement to allow this rate to become effective as of January 13, 1977.

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

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14177 Filed 5-17-77;8:45 am]

[Docket No. ER77-337]

TUSCON GAS & ELECTRIC CO.

Cancellation

MAY 10, 1977.

Take notice that Tuscon Gas & Electric Company (TG&E) on April 22, 1977 tendered for filing a notice of Cancellation of the November 25, 1976, TG&E Rate Schedule FPC No. 13. TG&E indicates that the aforementioned Rate Schedule is identified as the San Juan Generating Station Energy Sale Agreement among TG&E, El Paso Electric Company, and Public Service Company of New Mexico. TG&E further indicates that the Agreement was dated November 5, 1976, and the termination date as set forth in the Agreement is May 31, 1977.

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

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14180 Filed 5-17-77;8:45 am]

[Docket No. ER77-203]

WISCONSIN ELECTRIC POWER CO.

Filing of Change in Rate Schedule

MAY 10, 1977.

Take notice that on April 27, 1977, Wisconsin Electric Power Company (WEPCO) tendered for filing with the Federal Power Commission notification of a change in the Rate Schedule as provided for in the Power Supply Agreement between Wisconsin Electric and Wisconsin Michigan Power Company designated as WE Rate Schedule FPC No. 2.

WEPCO indicates that the Public Service Commission of Wisconsin has authorized an increase in the return on common equity from 12% to 13% for both companies and further indicates that if the proposed change is authorized for use in the Power Supply Agreement the pooling charges to be billed Wisconsin Michigan Power Company in 1977 will be reduced by an estimated $186,382.

WEPCO requests a waiver of the FPC timely filing requirement and that the change be made effective with the February, 1977 billing.

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 Paragraph 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14188 Filed 5-17-77;8:45 am]

[Docket Nos. CP77-100—CP77-103]

TENNECO ATLANTIC PIPELINE CO. AND TENNESSEE GAS PIPELINE CO.

Order Providing for Hearing, Prescribing Procedures and Granting Petitions to Intervene

MAY 5, 1977.

On December 20, 1976, Tenneco Atlantic Pipeline Company (TAPCO) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed applications pursuant to Sections 3 and 7 of the Natural Gas Act in Docket Nos. CP77-100, CP77-101, CP77-102 and CP 77-103, for authorization to implement a project designed to supply the east coast of the United States with Algerian liquified natural gas (LNG). Under their proposal LNG would be delivered by cryogenic tankers to the east coast of Canada near Saint John in the Province of New Brunswick where it would be vaporized and transported to the U.S.-Canadian border near Calais, Maine for further transportation through the states of Maine, New Hampshire, Massachusetts and New York by TAPCO. The gas would be used to serve existing customers of Tennessee. This project is more fully set forth in the applications in this proceeding.

By order issued February 12, 1977, in this proceeding, the Commission found that TAPCO's and Tennessee's applications were patently deficient in many material respects and ordered these deficiencies cured by April 1 and June 1 depending on the particular subject matter in question. Subsequent to the Commission's February 12 order, these applications were supplemented on February 18, 1977, by the filing of an environmental report, on March 22, 1977, by the filing of additional information and studies on the New Brunswick terminal facilities, and on April 1, 1977, by the filing of an engineering study of the New Brunswick terminal and additional gas supply information.[1] In our February 12, 1977 order we mentioned that the initial gateway for an expedited proceeding is the submittal of an application which is so complete that meaningful review can begin. We are hopeful that by June 1, 1977, the Applicant's efforts will fully open this door. In this order, procedural steps will be taken to open the remaining gateways so that a final Commission decision may be made on the disposition of this project by the close of this year, 1977.

The applications which we have heretofore consolidated required an examination, under Section 3 of the Natural Gas Act (Act), 15 U.S.C. 717b, to determine whether the importation would be in the public interest. The construction and operation of facilities and the sale for resale in interstate commerce of LNG as proposed in the applications require a determination that these activities are required by the public convenience and necessity under section 7 of the Act, 15 U.S.C. 717f. We believe that the significant questions presented by these applications require a formal public hearing at which time all issues bearing upon the public interest can be developed. Among the issues which we deem relevant for consideration are reliability of service of the foreign supply, the dependence of certain distributors on foreign LNG to meet residential and commercial markets, environmental impact of any proposed action, the proper method of pricing of the LNG supply, shipping costs, overall economic feasibility of the project, end-use allocation of the LNG supply, availability of alternate fuels for the markets to be served by the project, engineering feasibility of the project, and overall project safety.

In order to maintain a schedule which will allow a final decision by the end of 1977, we believe the following approximate milepost should be maintained as much as possible:

July 11—Circulation of Staff's Draft Environmental Impact Statement, and beginning of evidentiary hearing.
September 12—Circulation of Final Environmental Impact Statement.
November 2—Initial Decision.
November 21—Briefs on Exceptions.
November 30—Briefs Opposing Exceptions.

In our previous order, a number of interventions were granted. Since that period of time additional late petitions to intervene have been filed by:

The New York State Department of Environmental Conservation.
The Columbia County, Environmental Management Council.
Alabama-Tennessee Natural Gas Company.
Orange and Rockland Utilities, Inc.
The Society for the Protection of New Hampshire Forests.
The Peoples Gas Light and Coke Company.

Having reviewed these petitions, we believe these parties have an adequate interest in this proceeding to warrant intervention.

The Commission finds: (1) It is appropriate and in the public interest that a formal evidentiary hearing should be held in this consolidated proceeding.

(2) Good cause exists for accepting the aforesaid late petitions to intervene and participation by the aforementioned interveners may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, and the Commission's rules of practice and procedure, a public hearing shall be held in a hearing room of the Federal Power Commission on or before July 11, 1977, respecting all matters and issues in this consolidated proceeding.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to § 3.5(d) of the Commission's general rules, 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, motions to consolidate and sever, and motions to dismiss, as provided for in the Commission's rules of practice and procedure.

(C) On or before June 6, 1977, applicants shall complete the filing of their direct case including testimony and exhibits on all aspects.

(D) A prehearing conference shall be convened on June 23, 1977, at 10:00 a.m. in a hearing room of the Federal Power Commission before the designated Administrative Law Judge to discuss procedural issues, clarification of issues and the orderly presentation of evidence.

(E) The aforesaid petitioners to intervene are permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; *And provided, further,* That the admission of such intervenors shall

[1] Responses to various environmental deficiency questions from the Commission Staff were tendered on April 7, 1977.

not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14192 Filed 5-17-77;8:45 am]

[RP77-65 etc.]

ALABAMA-TENNESSEE NATURAL GAS CO. ET AL

Hearings to Evaluate the Impact of Natural Gas Shortages

MAY 11, 1977.

	Docket Nos.
Alabama-Tennessee Natural Gas Co	RP77-65
Algonquin Gas Transmission Co	RP77-66
Arkansas-Louisiana Gas Co	RP77-67
Cities Service Gas Co	RP77-68
Colorado Interstate Gas Co	RP77-69
Columbia Gas Transmission Corp	RP77-70
Consolidated Gas Supply Corp	RP77-71
East Tennessee Natural Gas Co	RP77-72
Eastern Shore Natural Gas Co	RP77-73
El Paso Natural Gas Co	RP77-74
Equitable Gas Co	RP77-75
Florida Gas Transmission Co	RP77-76
Michigan Wisconsin Pipe Line Co	RP77-77
Midwestern Gas Transmission Co	RP77-78
Mississippi River Transmission Co	RP77-79
National Fuel Gas Supply Corp	RP77-80
Natural Gas Pipeline Co. of America	RP77-81
Northern Natural Gas Co	RP77-82
Northwest Pipeline Corp	RP77-83
Panhandle Eastern Pipe Line Co	RP77-84
Southern Natural Gas Co	RP77-85
Tennessee Gas Pipeline Co	RP77-86
Tennessee Natural Gas Lines, Inc	RP77-87
Texas Gas Transmission Corp	RP77-88
Transcontinental Gas Pipe Line Corp	RP77-89
Transwestern Pipeline Co	RP77-90
Trunkline Gas Co	RP77-91
United Gas Pipe Line Co	RP77-92
Texas Eastern Transmission Corp	RP77-93

On July 20, 1976, the Commission issued an Order in Alabama-Tennessee Natural Gas Company, et al., Docket Nos. RP76-116, et al., for the purpose of ascertaining the magnitude and potential impact of projected curtailment during the course of the 1976-1977 winter heating season. The latter order was triggered by the report released by the Commission on June 18, 1976, summarizing FPC Form 16 projected data for the period of time between April 1, 1976, and March 31, 1977. The latter report generally reflected that the supply situation for the aforementioned period of time would be more critical than it was for the comparable period of time for the previous year.

The purpose of the instant order is to once again embark on a series of proceedings similar in nature to those initiated through the aforementioned July 20, 1976, order. Increased natural gas curtailment coupled with record cold winter weather experienced by the entire nation east of the Rocky Mountains last winter led to emergency situations of major proportions on many jurisdictional pipeline systems. As a result of the possible grave nature of a situation that can be created by the combination of cold weather and increased curtailment, the Commission is of the view that it should accelerate the time table of its curtailment assessment proceedings this year in order that it may have more time to consider the situation generally and to provide an over view of possible curtailment impact for the forthcoming winter on an expedited basis.

Last year's proceedings (Alabama-Tennessee, supra) specifically related to the nineteen pipelines that had submitted Form No. 16 projected curtailments of 20-percent or greater for the 1976-1977 winter. The so-called "omnibus proceeding" this year will make provision that proceedings be conducted in a similar manner as last year relative to those nineteen pipelines and require that they provide the information set forth in this order. In addition to the latter pipelines we shall also include in this year's omnibus proceedings certain additional pipeline companies that may experience difficulties in the maintenance of service during the course of next winter's heating season. Hence, all of the respondent pipelines to this order are subject to high levels of curtailment during the oncoming winter period.

Due to our uncertainty of the resultant impact that such high levels of curtailment will have upon the service areas of those pipelines this forthcoming winter, we shall require these pipelines to urge their customers, both direct and indirect, to inform us: (1) as to how the projected shortage will have an impact on their systems; (2) how they plan to deal with the shortages and (3) the flexibility the pipelines and their customers may have at their disposal to deal with the anticipated curtailments.

Of major significance in enabling us to make an assessment of the impact of this winter's projected curtailments is the extent to which industrial customers may possess an alternate fuel capability to off-set the loss of natural gas supplies.[1] The bulk of this information is required to be filed under FPC Form No. 69,[2] and its counterpart, Federal Energy Administration (FEA) Form No. G-101-P. The purpose of these Forms is to appraise appropriate Federal entities of the particular alternate fuels that can be used by the direct and indirect industrials that consume natural gas and the quantities of alternate fuels that are required to off-set projected curtailments. Unfortunately, the information provided by the latest submittals of the aforementioned forms probably will not be collated in time to enable an accurate assessment of the impact of curtailment on the industrial segment of the nation prior to completion of these proceedings.

In order to assure that this information is available on an expedited basis, the Commission will require that the captioned pipelines made parties to the above-styled proceedings distribute copies of this order to their distribution company customers and direct industrial customers. Concurrently therewith, the pipelines are to request that these customers provide to them a list of their customers that may be forced to shut down this winter because they lack either a supply of alternate fuel or alternate fuel equipment to off-set projected natural gas curtailments on a normal and 10-percent colder than normal winter period. The distribution customers that must be called upon to provide the information requested herein should file this data with their respective jurisdictional pipeline suppliers on or before May 31, 1977. The Commission will require that the pipelines file their reports, predicated upon this information and the other matters related thereto herein with the Commission by June 15, 1977. The reports submitted by the respondent pipelines are to both analyze and collate the data referred to and should be more than a mere accumulation of the mass data collected. If the filings by the pipelines are fashioned as requested, the task of assessing and providing an appropriate overview of the curtailment impact this winter by the Commission will be expedited. These pipelines should also, by June 15, 1977, provide and file with the Commission the other supporting data that is associated with FPC Form No. 16 described below. This information requested herein is undoubtedly available to the various distributors being serviced by these pipelines because of their reporting obligations under the aforementioned FEA forms. In the event that a distributor fails to provide the requested information, the Commission may be required to conclude that commercial and industrial customers served by such distributor will not have fuel deficiency problems that may force them to shut down during the impending winter months. The respondent pipelines to these proceedings shall provide the corresponding information requested from the distributors for their own direct industrial customers.

We shall further require that each of the individual pipelines present supporting testimoney relative to the FPC Form No. 16 report filed in April of 1977. This testimony should cover all aspects of its aforementioned filing and should specifically include discussion of:

(1) Gas supply projections and any anticipated variations in suply due to emergency purchases, methods utilized to make the supply forecasts, inclusion of producer work-overs in such forecasts, contingency arrangements for supply interruptions caused by such anticipated events as hurricanes, freeze-ups, etc.;

(2) The derivation of requirements used in the report reflecting any significant change to fully indicate the current situation. The requirements that are provided for in this report should be presented in the pipeline reports in a manner that would reflect the impact of curtailment for both a normal and a 10

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[1] Alternate fuel capability as used herein relates to customers having facilities installed capable of burning an alternate fuel.

[2] See Order No. 531 issued in Docket No. R-472 on June 25, 1975, adding Section 260.-165 to part 260, Statements and Reports, ----- FPC -----.

percent colder than normal winter basis.[3] The data to be provided by the distribution companies to the pipeline should fuly take this into account.

(3) Computation of curtailments should be explained in detail and each pipeline should provide a study to show the level of requirements and curtailments by system-wide aggregate for each priority of service for each month of the 1977–1978 winter heating season (November 1977 through March 1978). (Should include both normal and a 10 percent colder than normal winter heating season basis.)

This order, in view of the additional analysis and collating of requisites provided for, places an additional task upon the respondent pipelines over and above what was required by the aforementioned July 20, 1976, order. The Commission will not require that the pipelines provide it was data covering one hundred percent of their sales. The Commission would view a report that had adequately covered between 80 to 90 percent of such sales volumes as constituting substantial compliance. It is further the belief of the Commission that it might substantially slow down the collecting process of the pipelines if it were to require that they provide an equivalent percent of data relative to the sales they make to so-called "small customers". In this regard the Commission is of the view that a sampling of approximately ten percent of small customers would suffice as a basis for making an estimate of the situation of this type of customer. In order to provide for uniformity in the definition of a 'small' customer or distributor for the purposes of this order we shall consider those customers with maximum daily contract entitlements of 5,000 Mcf per day or less as falling into this category.

The data that we are calling for herein is intended to provide a reasonably accurate overview of the anticipated impacts next winter and such submissions should not be a substitute for the FPC–FEA detailed data collection in Form Nos. 69 and G–101–P. In the event that hearings are convened with respect to particular pipelines, it is the purpose of this Commission to assure that the reports and other data presented at the hearing that we have required in this order are properly incorporated into the formal hearing record. This will facilitate the task of the Commission Staff who in turn will be charged with the task of making and tendering its own report predicated upon the data obtained subsequent to the conclusion of the last hearing that may be conducted in these proceedings. It appears obvious that no useful purpose will be served by requiring that strict evidenciary and procedural rules be followed that might tend to either delay the proceedings or preclude the introduction of the data called for herein by the Commission into the hearing record. It would also not serve the purposes of the Commission to permit any hearing that may be conducted in conjunction with these proceedings to linger needlessly.

In our order issued on May 7, 1976, concerning alternate fuel demand of direct end use customers of interstate pipelines due to curtailments, Docket No. R–472, regarding public access to FEA data relating to the publication of the Commission Staff's report relating to the curtailment impact, we expressed our view that the over-riding public need for this information was far greater than any individual or private right involved. In view of the fact that our publication of data this year may not be as comprehensive as it was last year and the experience of the numerous emergency situations that confronted the nation last winter, the Commission is of the belief that a similar publication is justified this year. It is clear that an impelling public need exists to render an assessment of the situation and make it available to government and public alike so that effective and timely action can be taken to lessen the harmful impacts that may be highlighted therein.

The Commision recognizes that the possibility of convening of hearings within a short time period is an undertaking which will cause our Staff and other parties scheduling difficulties. We shall therefore provide that any hearings that are to be conducted with respect to the respondent pipelines are to be held between June 27, 1977, and July 22, 1977, and we shall direct that any hearings required to be held with respect to these proceedings be scheduled by the Chief Administrative Law Judge between the above-noted dates. In order to provide that scheduling flexibility be assured with a minimization of effort we shall provide that the Secretary may by notice reschedule any proceeding set for hearing in the event that any difficulties with data or pipeline reports submitted can be elminated between the submission date and hearing date.

Since the focus of these hearings is directed toward the accumulation of data which is wholly factual by nature, we shall forego the filing of briefs normally contemplated by the Commission. Instead we shall call upon our Staff and the other parties to file with the Commission by August 12, 1977, summary memoranda in which the data presented in these proceedings is analyzed and in which any party may be free to tender any comments that he feels warranted in light of the facts and data developed in such hearing.

In light of the fact that there may exist certain common elements of interest between the above-styled proceedings and the curtailment proceedings that are currently in various stages of determination relative to the aforementioned pipelines, we shall automatically permit any party permitted to intervene in such proceedings the right to intervene and to have all the rights of a party in the corresponding pipeline proceedings instituted herein.[4] Appropriate provision will be made for other persons interested or desiring to intervene in the above-styled proceedings.

The FEA is requested by the Commission to participate and to provide for the record in these proceedings state and regional information relative to alternate fuel availability for the forthcoming winter-heating season. State energy agencies and state public service commissions are also requested to participate and to provide information relating to (1) the end-use profile of natural gas for ultimate consumption which lies within the regulatory authority vested in them, (2) the lack of alternate fuel capabilities of end-users in areas subject to their jurisdiction, and (3) local conservation measures that are either directed or coordinated by them to off-set the impact of the natural gas shortage. All others, including interested federal and state agencies are also invited to participate in these proceedings.

[3] The 10 percent colder than normal basis should be computed on the assumption of an increase in average monthly degree day difficulties of 10 percent in excess of historical normal as computed by the Department of Commerce.

[4] The curtailment proceedings relating to the twenty-nine pipelines named in the caption of this order are as follows:

Alabama-Tennessee Natural Gas Company, Docket No. RP74–42.
Arkansas-Louisiana Gas Company, Docket No. RP71–122.
Cities Service Gas Company, Docket No. RP75–62.
Columbia Gas Transmission Corporation, Docket No. RP72–83.
East Tennessee Natural Gas Company, Docket No. RP75–28.
Eastern Shore Natural Gas Company, Docket Nos. RP71–121, and RP72–21.
El Paso Natural Gas Company, Docket No. RP72–6.
Northwest Pipeline Corporation, Docket No. RP74–49.
Panhandle Eastern Pipeline Company, Docket No. RP71–119.
Tennessee Natural Gas Lines, Inc., Docket No. RP74–54.
Texas Eastern Transmission Corporation, Docket Nos. RP71–130, and RP72–58.
Texas Gas Transmission Corporation, Docket No. RP72–64.
Transcontinental Gas Pipe Line Corporation, Docket No. RP72–99.
Transwestern Pipeline Company, Docket No. RP73–101.
Trunkline Gas Company, Docket No. RP71–100, and United Gas Pipe Line Company, Docket Nos. RP71–29, and RP71–120.
Algonquin Gas Transmission Co., Docket Nos. RP71–131, et al.
Equitable Gas Co., (None assigned).
Colorado Interstate Gas Co., Docket No. RP 72–122.
Consolidated Gas Supply Corp., Docket No. RP77–29.
Florida Gas Transmission Co., Docket No. RP71–128.
Michigan Wisconsin Pipe Line Co., Docket No. RP76–50.
Midwestern Gas Transmission Co., Docket No. RP74–29, RP74–69.
Mississippi River Commission Corp., Docket No. RP73–6.
National Fuel Gas Supply Corp., Docket No. RP74–100.
Natural Gas Pipeline Co. of America, Docket No. RP70–42.
Northern Natural Gas Co., Docket No. RP74–102, and RP76–52.
Southern Natural Gas Co., Docket No. RP72–74, and RP74–6.
Tennessee Gas Pipeline Co., Docket No. RP 74–24.

The Commission finds: (1) It is in the public interest and consistent with the purposes of the Natural Gas Act to schedule hearings in certain of the proceedings hereinabove named, for the purpose of determining the impact of projected curtailments of natural gas deliveries over the 1977–78 winter heating season.

(2) It is in the public interest to allow all persons permitted to intervene in the corresponding pipeline curtailment proceedings set forth in the text of this order permission to intervene in the corresponding proceeding instituted by this order.

The Commission orders: (A) Pursuant to the authority conferred upon the Commission under the Natural Gas Act, particularly Sections 4, 5, 7, 14, and 15 hearings shall be scheduled to be held as provided in ordering paragraph (B) hereof in the above-styled procedings in order to determine the impact of projected curtailment for the 1977–1978 winter heating season.

(B) The hearing provided for in ordering paragraph (A) shall be convened at such times and places as provided for in a Notice to be issued by the Secretary after receipt of a recommendation made by the General Counsel and Chief of the Bureau of Natural Gas after consultation on this matter with the Chief Administrative Law Judge. The Commission contemplates that in a number of instances, formal hearings may not be necessary and the Secretary shall be so advised by the General Counsel after consultation with BNG, and in such event, no hearing will be convened by the Secretary. In formulating the hearing schedule to be undertaken by the General Counsel and the Chief of the Bureau of Natural Gas, manpower resources and work schedule demands of the Office of Administrative Law Judges will be given full consideration.

(C) An administrative Law Judge to be designated by the Chief Administrative Law Judge shall preside over the hearings that will be scheduled in the above-styled proceedings noted above in Ordering Paragraphs (A) and (B) and shall prescribe relevant procedural matters not herein provided and assure the development of an adequate record with the incorporation therein of the information sought and requested by the Commission in the text of this order.

(D) Each of the respondent pipelines designated in this order shall provide on a best efforts basis, the information called for in the body of this order no later than June 15, 1977. All parties to the instant proceedings are hereby requested and all customers of the respective pipeline companies are hereby urged to provide their pipeline suppliers with the necessary information by May 31, 1977, to enable the pipelines to comply with this order, Copies of the aforementioned data shall be served, upon the appropriate state regulatory bodies, and the Washington office of the Federal Energy Administration.

(E) An analysis in memorandum form of the information obtained in these proceedings shall be presented to the Commission by the Commission Staff and other interested parties desiring to submit such memorandum or comments to the Commission by August 12, 1977.

(F) All parties previously granted intervention in the curtailment proceedings set forth in the text of this order are permitted to intervene in and participate in the corresponding pipeline proceeding that has been instituted by this order subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene in the aforementioned curtailment proceedings: *And provided, further,* That the admission of such intervenors shall not be construed by the Commission that subject interveners might be aggrieved because of any order or orders issued by the Commission in these proceedings.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14176 Filed 5-17-77;8:45 am]

[Docket No. ER77-347]

WISCONSIN POWER AND LIGHT CO.

Tariff Change

MAY 10, 1977.

Take notice that Wisconsin Power and Light Company (WP&L), on May 2, 1977 tendered for filing proposed changes in its W-2 and W-3 Electric Service Tariffs, Wholesale For Resale. WP&L indicates that the proposed changes would increase revenues from W-2 Customers by $1,680,445 and from W-3 Customers by $3,745,011 based on the 12-month period ending June 30, 1978.

WP&L states that the proposed rate increase is necessary to meet rising financial and operating costs. The proposed effective date of the rates contained in the filing is July 1, 1977.

WP&L further states that copies of the filing were served upon the public utility's jurisdictional customers; and the Public Service Commission of Wisconsin.

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 §§ 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 application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14187 Filed 5-17-77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST OF GRANDFIELD CORP.

Formation of Bank Holding Company

First of Grandfield Corporation, Grandfield, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares of First State Bank, Grandfield, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 3, 1977.

Board of Governors of the Federal Reserve System, May 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14131 Filed 5-17-77;8:45 am]

MAHASKA INVESTMENT CO.

Order Denying Formation of Bank Holding Company

Mahaska Investment Company, Oskaloosa, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 51.47 percent of the voting shares of Farmers Savings Bank, Fremont, Iowa ("Bank"). Applicant has also applied, pursuant to the Board's Regulation Y, for permission to continue to engage directly in the activity of leasing real property or acting as agent, broker or advisor in leasing such real property, and to engage indirectly, through its wholly owned subsidiary, MIC Leasing Co., Oskaloosa, Iowa ("MIC"), in the activity of leasing personal property or acting as agent, broker or advisor in leasing such personal property. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(6)(a) and (b)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (42 FR 3876). The time for filing comments and views has expired and the applications and all comments received have been considered in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Applicant, a corporation organized under the laws of Iowa, is currently engaged, either directly or indirectly, in the leasing of real and personal property and brokering of credit life, acci-

dent and health insurance and mortgage guaranty insurance for mobile homes.[1] Upon acquisition of Bank ($12.4 million in deposits), Applicant would control the 276th largest commercial bank in Iowa, with approximately 0.1 percent of the total deposits in commercial banks in the State.[2]

Bank is the third largest of the five commercial banks in the Mahaska County banking market and control approximately 13.5 percent of the total commercial bank deposits in the relevant banking market.[3] In analyzing the competitive effects of this proposal, it is also necessary to consider Applicant's affiliate relationship with Mahaska State Bank, Oskaloosa, Iowa ("Mahaska Bank") the largest commercial banking organization in the market. Mahaska Bank holds total deposits of $44.1 million, representing 47.7 percent of the deposits in the market, and is more than twice the size of the next largest competitor in the market. In view of the nature and scope of Applicant's affiliation with Mahaska Bank, the Board is of the view that competitive effects of this proposal are such that denial of the application is warranted.

Applicant was originally incorporated in February 1973 as a wholly-owned subsidiary of Mahaska Bank for the purpose of leasing a site for a new drive-in facility to that bank. Subsequently, during November 1973, as a result of a directive by the Iowa Superintendent of Banking, Mahaska Bank was required to divest of Applicant and it caused Applicant's shares to be spun-off to the then shareholders of Mahaska Bank. Since that time, there has been a close identity of shareholders, as well as a commonality of management, involving Mahaska Bank and Applicant. At the present time, four of Applicant's six directors serve as directors of Mahaska Bank and 126 of Applicant's 133 shareholders collectively own 100 percent of the shares of Mahaska Bank.

While this proposal does not itself involve Mahaska Bank, the Board does not believe that it would be appropriate to ignore the identity of interests between Applicant and Mahaska Bank in assessing the competitive effects of a proposal that seeks to bring bank into the affiliated group through the formation of a bank holding company. Applicant's president, who also serves in the same capacity with Mahaska Bank, acquired in an individual capacity approximately 52 percent of the shares of Bank in 1976 by means of a loan from an unaffiliated bank. As part of this proposal, Applicant would assume the outstanding indebtedness (as well as accrued interest) in return for the shares now held by its president. Thereafter, as a corporation, Applicant would proceed to retire the acquisition debt from dividends from Bank and earnings from its nonbanking activities.

Section 3(c) of the Bank Holding Company Act requires the Board to consider whether any proposed acquisition by a bank holding company (1) would further the monopolization or attempted monopolization of a banking market, or (2) may substantially lessen competition or tend to create a monopoly in any posed acquisition involves the use of a banking market. Where, as here, a proholding company by a group of individuals to acquire control of a bank that is a competitor of another bank under the control of essentially the same individuals, the Board believes it must apply these standards.[4]

In the Board's view, the subject proposal presents a compelling case where the holding company form is being used to further an anticompetitive arrangement. Under this proposal, two banks that up to last year were independent banks competing as the first and third largest banks in the Mahaska County market would be brought under common control through the use of a holding company structure. In view of the sizes of the organizations involved and their collective position in the Mahaska market (together the two banks hold 61.2 percent of the market's deposits), the Board is of the opinion that approval of this proposal would have significant adverse competitive effects. While denial of this proposal may not immediately result in a complete termination of the present situation (Applicant's president would continue to own Bank), it would preserve the distinct possibility that Bank could again become an independent organization in the future. Approval, on the other hand, would almost certainly foreclose that possibility since, as a result of the flexibility afforded by the holding company structure, Applicant would appear capable of servicing its acquisition debt and, in addition, a mutuality of interest between Mahaska Bank and Bank would likely be established.

On the basis of the foregoing and the facts of record, the Board concludes that approval of this application would have significant adverse competitive effects. Accordingly, under the standards set forth in the Bank Holding Company Act, the proposal may not be approved unless the adverse competitive factors are clearly outweighed by other public interest considerations reflected in the record.

The financial and managerial resources and future prospects of Applicant, which are dependent upon Bank, MIC, and Applicant's leasing activities, are considered satisfactory and generally consistent with approval of the subject application. Therefore, considerations relating to banking factors are consistent with approval of the application. Applicant plans changes and improvements in the form of both physical expansion of Bank's facilities and new and additional banking services. The Board finds that considerations relating to the convenience and needs of the community lend some weight toward approval but, in the Board's view, do not outweigh the significant adverse findings with respect to competitive considerations. Accordingly, it is the Board's judgment that approval of this application would not be in the public interest and that the application should be denied.

On the basis of all facts of the record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that consummation of the proposal to form a bank holding company would not be in the public interest and that the application should be, and is hereby, denied for the reasons summarized herein.[5]

By order of the Board of Governors,[6] effective May 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14132 Filed 5-17-77;8:45 am]

[1] Applicant has indicated that it intends to terminate all of its insurance activities if these applications are approved.

[2] Unless otherwise indicated, all banking data are as of June 30, 1976.

[3] The relevant geographic market for purposes of analyzing the competitive effects of the proposed transaction is approximated by Mahaska County, Iowa.

[4] Even in the absence of any use of the holding company form, the standards of sections 1 and 2 of the Sherman Act may apply to the acquisition by a group of individuals of control of a bank that is a competitor of another bank controlled by essentially the same group.

[5] Denial of Applicant's § 3(a)(1) application renders moot Board action on the accompanying § 4(c)(8) application.

[6] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Jackson.

NATIONAL DETROIT CORP.

Order Denying Acquisition of Bank

National Detroit Corporation, Detroit, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Brighton State Bank, Brighton, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of two shareholders of Bank opposing the proposal, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

Applicant, the largest bank holding company in Michigan, controls five banks with aggregate deposits of approximately $5.0 billion, representing 16.3 percent of the total commercial bank deposits in the State.[1] Acquisition of Bank ($54.9 million in deposits) would not significantly increase the concentration of banking resources in Michigan; how-

[1] All banking data are as of June 30, 1976. Applicant received approval to acquire the National Bank of Port Huron, Port Huron, Michigan, a proposed new bank, on September 27, 1976; however, the bank has not yet opened for business. (See 63 Federal Reserve Bulletin 861, 1976.)

ever, it would have adverse effects upon concentration in the relevant market.

Bank, the 25th largest of 46 banking organizations in the relevant market,[2] has total deposits of approximately $54.9 million, $48.9 million of which are in offices within the Detroit market, representing 0.3 percent of the total commercial bank deposits in the relevant market. Applicant has a significant presence in the Detroit banking market as it operates three banks with 107 banking offices in the market controlling $4.96 billion in deposits, which represent 30 percent of total commercial bank deposits in the market. The four largest banking organizations in the Detroit market hold in the aggregate 70.2 percent of total commercial bank deposits in the market. Acquisition of Bank would result in a further increase in market concentration and continue the trend toward concentration that the market has exhibited in the last year.

In addition to having adverse effects upon the concentration of banking resources in the Detroit market, it appears that consummation of this proposal would eliminate existing competition within the Detroit market between Bank and Applicant. The Board notes that this proposal involves the acquisition of the largest independent bank in the Livingston County portion of the Detroit market by the largest bank holding company in the market and the State. Although Michigan law would prohibit Applicant from branching into most of the Livingston County portion of the Detroit market, Applicant is in a strong financial position and clearly has the resources to expand into Livingston County; in particular, Applicant has previously expressed an interest in that portion of the market and is clearly capable of de novo entry through the establishment of a new bank there.[3] In light of the above, the Board concludes that consummation of the proposal would eliminate significant existing competition within the Detroit market.

The financial and managerial resources and prospects of Bank are regarded as satisfactory. The financial and managerial resources and future prospects of Applicant and its subsidiaries are also regarded as satisfactory. Applicant would exchange shares of its common stock for the outstanding stock of Bank and would purchase convertible debentures of Bank for cash. The Board finds that considerations relating to financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are consistent with approval; however, such considerations do not lend significant weight for approval of the application.

Applicant states that it would improve Bank's services somewhat by increasing Bank's loan portfolio to include more consumer and commercial loans, upgrading some of Bank's physical facilities and increasing Bank's hours of operation. However, it apepars that the major banking needs in the community are currently being met. Accordingly, the Board finds that little weight can be accorded such services and that considerations relating to the convenience and needs of the community to be served lend no significant weight toward approval of the application. In summary, therefore the considerations relating to banking factors and the considerations relating to the convenience and needs of the community to be served do not outweigh the substantially adverse competitive effects that would result from Applicant's acquisition of Bank.

On the basis of the facts of record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized herein.

By order of the Board of Governors,[4] effective May 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

APPENDIX A

CITIES AND TOWNSHIPS ADDED TO THE DETROIT BANKING MARKET

County—city or township

Lapeer—Almont, Dryden, Hadley, and Metamora.
Monroe—Ash and Berlin.
Washtenaw—Salem.
St. Clair—Algonac City, Berlin, Casco, China, Clay, Columbus, Cottrellville, East China, Ira, Marine City, Memphis City, New Baltimore City, Riley, St. Clair City, and St. Clair Twp.
Livingston—Brighton City, Brighton Twp., Genoa, Green Oak, Hartland, Howell City, Howell Twp., Iosco, Marion, Oceola, and Tyrone.

[FR Doc.77-14133 Filed 5-17-77;8:45 am]

[2] In the previous cases involving the Detroit area, the Board has generally been confronted with bank holding company applications to acquire banks located near the center of the Detroit banking market and has defined that market somewhat loosely as being approximated by Macomb, Oakland, and Wayne Counties. This proposal involves the acquisition of a bank on the fringe of the Detroit market and consequently the Board has examined more closely the available census data so as to define more precisely the Detroit banking market for purposes of analyzing the competitive effects of this proposal. On the basis of a detailed study of commuting patterns and population trends, it appears that a significant proportion of the population of the five counties surrounding Macomb, Oakland, and Wayne Counties, work in Macomb, Oakland, and Wayne Counties, and therefore, the definition of the Detroit market should be expanded somewhat to include 33 cities and townships from the counties of St. Clair, Lapeer, Livingston, Washtenaw, and Monroe. (See Appendix A.)

[3] Applicant contends that the relatively low ratios of population and deposits per banking office in Livingston County make de novo entry there unattractive. However, between 1960 and 1970 the population of Livingston County grew by 54.2 percent, a rate four times the State average. Between 1970 and 1975, available data indicate that the county's population grew by 32 percent of the 1970 base. Accordingly, the Board is unable to agree with Applicant's contention that the county is unattractive to de novo entry.

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Jackson.

PEOTONE BANCORP, INC.

Formation of Bank Holding Company

Peotone Bancorp, Inc., Peotone, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Peotone Bank and Trust Company, Peotone, Illinois. The factors that are considered in action on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 7, 1977.

Board of Governors of the Federal Reserve System, May 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14198 Filed 5-17-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

STATE PLANNING COMMISSIONS PROGRAM—INTRASTATE PLANNING

Allocation Formula and Program Guidelines

AGENCY: Office of Education, HEW.

ACTION: Final Notice of Allocation Formula and Program Guidelines for fiscal year 1977.

SUMMARY: A notice of allocation formula and program guidelines is issued to implement the State Planning Commissions Program—Intrastate Planning under Section 1203(a) of the Higher Education Act of 1965, as amended, for fiscal year 1977. This program is operated as a formula grant program, and it is necessary to publish both the formula used to allocate the available funds and the program guidelines each year. The program is designed to provide assistance to State Postsecondary Education Commissions to conduct statewide comprehensive planning activities for postsecondary education.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this notice has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmissions, subject to the provi-

sions therein concerning Congressional action and adjournment.

ADDRESSES: State Planning Commissions Program, Bureau of Postsecondary Education, Room 4052, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Charles I. Griffith, Telephone: (202) 245-2671.

SUPPLEMENTARY INFORMATION:

A. Publication as Final Notice of Rulemaking.

The Commissioner of Education for good cause finds that resort to proposed rulemaking procedures with respect to this notice is unnecessary within the meaning of 5 U.S.C. 553(b). Publication of a proposed allocation formula and program guidelines for fiscal year 1977 in this case is unnecessary because they are identical to the allocation formula and program guidelines utilized in fiscal year 1976 which were subject to public comment.

B. Response to Comments Previously Received.

The Commissioner published a Notice of Intent to Issue Regulations implementing the provisions of the Education Amendments of 1976 in the FEDERAL REGISTER of November 29, 1976 (41 FR 52410, 52418). Comments were invited concerning the feasibility of either expanding the existing program guidelines for intrastate planning for postsecondary education or developing new guidelines. Five public conferences were held at various locations between December 13-17, 1976, at which time the Office of Education received comments on this and other provisions of the Education Amendments. Further written comments were also received through December 30, 1976. The following is a summary of the comments received and the Office of Education's response.

Comment.—Seven comments were received, and each recommended that no change be made in the existing program guidelines since the program is operating successfully with maximum flexibility afforded to the State Commissions under the existing guidelines.

Response.—The allocation formula and program guidelines for fiscal year 1976 will be continued for fiscal year 1977.

NOTE: The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order No. 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.550; State Planning Commissions Program—Intrastate Planning.)

Dated: April 21, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

POSTSECONDARY EDUCATION; STATE PLANNING COMMISSIONS PROGRAM—INTRASTATE PLANNING

ALLOCATION FORMULA AND PROGRAM GUIDELINES

1. *Allocation formula.* Such funds as may become available for grant awards during fiscal year 1977 for intrastate planning under the State Plannnig Commissions Program will be allocated in the following manner among those State Postsecondary Education Commissions which have filed the required information concerning establishment with the Office of Education and which have applied for funds:

(a) A base amount of $30,000 will be distributed to each State Commission.

(b) The balance of the available funds will be distributed on the basis of the ratio of the population of a postsecondary age, namely 17 and above (as indicated in the latest data available from the U.S. Bureau of the Census), in a given State to the total population of a postsecondary age in all States with such Commissions.

2. *Program guidelines.* Grants made under these provisions must be used by a State Commission to conduct comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so. Such comprehensive studies and inventories should be developed in coordination with all segments of postsecondary education in the State and should be of such a nature as will assist the State Commission in planning for:

(a) Maximizing the development of human resources within the State through encouragement of student entrance to postsecondary education and the provision of the students of needed, guidance, counseling and financial assistance;

(b) Providing comprehensive postsecondary education programs and services;

(c) Achieving efficient operation and orderly growth;

(d) Providing the fullest possible financial support together with efficient use of resources;

(e) Attracting and retaining qualified faculty and professional personnel; and

(f) Providing adequate and appropriate facilities and instructional equipment and securing efficiency in their use.

20 U.S.C. 1142b(a)

[FR Doc.77-14137 Filed 5-17-77;8:45 am]

Health Resources Administration

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1977:

Name: Health Services Research Study Section.
Date and time: June 1-3, 1977 9 a.m.
Place: Room A, Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008.
Open June 1, 9 a.m.-10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session on June 1, 1977, will be devoted to a business meeting covering administrative matters and reports. During the closed session, the study section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. These applications contain personal information on project staff as well as research protocol, design, raw research data, technical information, and interim research reports, all considered proprietary in nature and therefore the meeting will be closed to the public. The closing is in accordance with provisions set forth in section 552b(c)(6) Title 5, U.S. Code and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Hoke S. Glover, National Center for Health Services Research, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443-2920.

Name: Health Care Technology Study Section.
Date and time: June 6-8, 1977, 9 a.m.
Place: Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, D.C. 20036.
Open June 6, 9 a.m.-10 a.m.
Closed for remainder of the day.
Closed June 7, all day.
Open June 8, 9:00 a.m. until adjournment.
Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session on June 6, 1977, will be devoted to a business meeting covering administrative matters. The meeting on June 8, 1977, will also be open, consisting of a seminar on assessment of proposals to evaluate health care information systems. During the closed sessions, a review of health services research grant applications relating to the delivery, organization, and financing of health services will be conducted. These applications contain personal information on project staff as well as research protocol design, raw research data, technical information, and interim research reports, all considered proprietary in nature and therefore the meeting will be closed to the public, in accodance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443-2950.

Name: Health Services Developmental Grants Study Section.
Date and time: June 9-10, 1977, 8:30 a.m.
Place: Circle Room, Dupont Plaza, Connecticut and Massachusetts Avenue NW., Washington, D.C. 20036.
Open June 9, 8:30 a.m.-10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of meeting on June 9, 1977, will be devoted to administrative matters and reports. During the closed session, the Study Section will be reviewing research grant applications relating to the delivery, organization, and

financing of health services. These applications contain information on project staff as well as research protocol, design, raw research data, technical information, and interim research reports, all considered proprietary in nature and therefore the meeting will be closed to the public. The closing is in accordance with provision set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2930.

After May 16 the contact person for the above Study Sections will be located at: Federal Center Building No. 2, Room 7-50A, 3700 East West Highway, Hyattsville, Maryland 20782, and have the following telephone numbers;

Mr. Hoke S. Glover—(301) 436-2918.
Mr. Alan E. Mayers—(301) 436-6196.
Mr. David McFall—(301) 436-6916.

Agenda items are subject to change as priorities dictate.

Dated: May 11, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-14093 Filed 5-17-77;8:45 am]

National Institutes of Health

REPORT ON CARCINOGENESIS BIOASSAY OF NITRILOTRIACETIC ACID

Availability

Nitrilotriacetic acid has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: Bioassays for the carcinogenicity of nitrilotriacetic acid, trisodium salt, monohydrate ($Na_3NTA \cdot H_2O$) were conducted at Stanford Research Institute (SRI), using Fischer 344 rats, and at Litton Bionetics, Inc. (LBI), using both Fischer 344 rats, and B6C3F1 mice. Similar bioassays, using rats and mice, were conducted at LBI on the free acid nitrilotriacetic acid (NTA). Each chemical was mixed in respective diets and administered adlibitum. The $Na_3TA \cdot H_2O$ was tested in rats at SRI at 200, 2,000, and 20,000 ppm for a 24-month period. It was also tested in rats at LBI at 7,500 and 15,000 ppm and in mice 2,500 and 5,000 ppm using 18-month feeding periods for both species. The NTA was tested in rats and mice at LBI at 7,500 and 15,000 ppm for the 18-month period. The numbers of animals used in tests at SRI were 24 of each sex for each dose group and for the controls; at LBI, 50 of each sex for each dose group and 20 of each sex for the controls. Since equimolar quantities of $Na_3NTA \cdot H_2O$ and NTA were not used, given concentrations of $Na_3NTA \cdot H_2O$ represented 30% less NTA than did equal concentrations of the free acid.

Average weights attained by high-dose groups of rats and mice were consistenly lower than those of control groups. Less difference was observed with the low-dose groups. Survival, however, was not decreased by the compounds administered, except in rats given 20,000 ppm $Na_3NTA \cdot H_2O$.

Lesions of the urinary tract were found in most treated groups of both rats and mice. They were characterized especially in the high-dose groups, by primary tumors of epithelial origin. These tumors were particularly signficant since they were not found in the urinary tract of the control mice and only rarely occur spontaneously in the strains of animals on test. Lesions of the urinary tract were also characterized by hydronephrosis and/or nephritis in high-dose rats and by nephritis in both high- and low-dose mice.

Statistical evidence of the carcinogenicity of $Na_3NAT \cdot H_2O$ and NTA was provided by incidences of tumors at different sites in the urinary tract. For example, among animals given 20,000 ppm $Na_3NTA \cdot H_2O$ at SRI, tumors of the kidney occurred in male (treated, 9/24; untreated, 0/24; P=0.001) and female (treated, 4/24; untreated, 0/24; P=0.054) rats; tumors of the ureter, in male (treated, 8/24; untreated, 0/24; P=0.002) and female (treated, 6/24; untreated, 0/24; P=0.011) rats; and tumors of the bladder, in female rats (treated, 5/24; untreated, 0/22; P=0.031). Similarly, among animals given 15,000 ppm NTA at LBI, tumors of the bladder occurred in female rats (treated, 12/48; untreated, 0/18; P=0.014) and tumors of the kidney occurred in male mice (treated, 24/44; untreated, 0/20 P <0.001). Additional tests at LBI, using 15,000 and 7,500 ppm $Na_3NTA \cdot H_2O$ and 7,500 ppm NTA in male and female rats, 15,000 and 7,500 ppm $Na_3NTA \cdot H_2O$ and 7,500 ppm NTA in male mice, also induced tumors of the urinary tract, but in numbers too low to be statistically significant. Metastatic tumors, appearing to have arisen from primary tumors of the urinary tract, were found in 5/24 male and 5/24 female rats given 20,000 ppm $Na_3NTA \cdot H_2O$ at SRI and in one male rat given 15,000 ppm NTA at LBI; none were found in rats given lower doses or in mice.

Thus, NTA and $Na_3NTA \cdot H_2O$ were shown to be carcinogenic to the urinary tracts of both rats and mice at the higher doses tested. Lower doses, as delineated in this report, did not induce significant numbers of such lesions.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: April 26, 1977.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc.77-13519 Filed 5-17-77;8:45 am]

COMBINED MODALITY COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Combined Modality Committee, National Cancer Institute, National Institutes of Health, May 31-June 1, 1977, which was published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23175).

Dated: May 11, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-14121 Filed 5-17-77;8:45 am]

STUDY SECTIONS

Amended Notice of Meetings

Notice is hereby given of a change in the meeting date, time or place of the following National Institutes of Health Study Sections which were published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23176-77).

The Medicinal Chemistry A Study Section was to have met in La Jolla Village Inn, La Jolla, CA, but will meet at the Town and Country Hotel, San Diego, CA, June 16-19, 1977 at 9 a.m., the same dates and time for which it was originally scheduled. The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

The Microbial Chemistry Study Section was to have met in Building 31, Room 8, C-Wing, Bethesda, MD, but will meet at the Holiday Inn, Bethesda, MD, June 16-18, 1977 at 8:30 a.m., the same dates and time for which it was originally scheduled. The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

The Neurology A Study Section was to have met June 1-4, 1977, but will meet June 1-3, 1977 at 9 a.m. at Building 31, Room 4, A-Wing, Bethesda, MD, the same location for which it was originally scheduled. The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

The Physiological Chemistry Study Section will meet as scheduled June 9-11, 1977 at 9 a.m. at the Embassy Row Hotel, Washington, DC. However, they will hold an additional session on June 8, 1977, at 7 p.m. until adjournment at the Embassy Row Hotel, Washington, DC. The open portion of this meeting will be held on June 9, 1977, at 9 a.m. for approximately one hour.

Dated: May 12, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-14124 Filed 5-17-77;8:45 am]

NEW FINDINGS ON THE COMPLEXITY OF NUCLEIC ACIDS IN VIRAL GENOMES

Notice of Workshop

Notice is hereby given of a Workshop on New Findings on the Complexity of Nucleic Acids in Viral Genomes sponsored by the Experimental Virology Study Section, University of Wisconsin, Madison, Wisconsin, June 16, 1977, from 8:30 a.m. to adjournment.

Further information may be obtained from Dr. Eugene Zebovitz, Executive Secretary, Experimental Virology Study Section, Westwood Building, Room 206, telephone 301/496-7474.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: May 11, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-14122 Filed 5-17-77;8:45 am]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, June 23 and 24, 1977. The meeting will be held in Conference Room 10, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20014. The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on both days, to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 5A03, (301) 496-4236, will provide summaries of the meeting and rosters of Committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLBI, NIH, Building 31, Room 4A29, (301) 496-6931, will furnish substantive program information.

Dated: May 11, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-14123 Filed 5-17-77;8:45 am]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part S (fomerly Part 4) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections SG.00, SG.10 and SG.20 (formerly sections 4-06-00 through 4-06-20, published at 40 FR 36612-13 on August 21, 1975) describe the Mission, Organization and Functions for SSA's Bureau of Hearings and Appeals (BHA). Notice is hereby given that all references to Hearing Examiners—Supplemental Security Income in sections SG.00, SG.10 and SG.20 are eliminated. In addition, section SG.20I of the BHA material is hereby amended to reflect the abolishment of BHA's Regional Development Centers and certain minor editorial changes. The revised material reads as follows:

Sec. SG.20 *Bureau of Hearings and Appeals*—(Functions).

I. *The Office of the Regional Chief Administrative Law Judge (SG F1/SG FX)*.—A. Represents the Bureau Director at the regional level with respect to all matters pertaining to the hearings process.

B. Plans, organizes, and administers a regional program for scheduling and conducting independent and impartial hearings on appealed determinations involving claims for retirement, survivors and disability insurance benefits under title II of the Social Security Act as amended (the Act); health insurance benefits under title XVIII of the Act; and supplemental security income benefits under title XVI of the Act, as well as disability and survivors benefits under the "Black Lung" Act.

C. Provides substantive guidance, administrative direction and leadership to Administrative Law Judges and their staffs.

D. Coordinates operations and administrative activities with the HEW Regional Office; other SSA components; State agencies; and other parties, as required.

E. Exercise general administrative supervision over Administrative Law Judges and their supporting staffs within the region.

Dated: May 3, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14135 Filed 5-17-77;8:45 am]

Public Health Service

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH, OFFICE OF ADMINISTRATIVE MANAGEMENT, ADMINISTRATIVE SERVICES CENTER

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HA, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare, entitled Office of Assistant Secretary for Health (38 FR 18571-74, 7/12/73, as amended by 40 FR 55889, 12/2/75) is amended to reflect the establishment of the Division of Public Health Service Claims within the Administrative Services Center, Office of Administrative Management.

Section HA-B, Organization and Functions, is changed as follows: Under the Office of Administrative Management (HAU), Administrative Services Center (HAU1), insert the following statement after the statement for the Division of Materiel Management (HAU13):

Division of Public Health Service Claims (HAU14). The Division Director is responsible for and coordinates a total PHS claims program within authorities delegated by the Department for claims filed against the Government under the Federal Tort Claims Act, Military Personnel and Civilian Employees' Claims Act, and the Small Claims Act; debt claims by the Government under the Federal Claims Collection Act; and claim filing procedures and initial processing of claims under new health programs such as the Swine Flue Immunization Program. This Division: (1) investigates and evaluates claims; (2) recommends disposition of claims to the Department Claims Officer or undertakes disposition within delegated authority; (3) procures and provides official records, documents and materials as may be required by the Office of General Counsel and the Department of Justice in defense of suits against the Government; (4) obtains medical evaluations; and assists, where necessary, in arranging for the appearance of witnesses with respect to malpractice claims and litigation; (5) provides professional advice and technical direction to PHS personnel on claim functions; (6) cooperates with Office of General Counsel, Departments of Justice and State, and other public and private organizations concerned with administrative claims and tort litigation; (7) organizes and provides training for medical and paramedical personnel in the legal aspects of hospital records and medical professional liability; and (8) develops, recommends and implements claims procedures.

Dated: May 3, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14136 Filed 5-17-77;8:45 am]

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Determination

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of April 1977 the following entity has been determined to be a qualified health maintenance organization under section 1310 (d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

NAME, ORGANIZATIONAL TYPE, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

1. Intergroup Prepaid Health Services, Inc. (Individual Practice Association type, see section 1310(b)(2)(A) of the Public Health

Service Act), CNA Plaza, Chicago, Illinois 60685. Service area: Illinois—Counties of Champaign, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodward. Indiana—Counties of Lake and Porter. Date of qualification: April 18, 1977.

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 14A-27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: May 9, 1977.

WILLIAM B. MUNIER,
Director,
Office of Quality Standards.

[FR Doc.77-14170 Filed 5-17-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 34079]

MONTANA

Amendment to Application

MAY 11, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 185 (1970 Supplement V), Kansas-Nebraska Natural Gas Company, Inc., has applied for an amendment to their application for a right-of-way for a natural gas gathering system across the following Federal lands:

PRINCIPAL MERIDIAN, MONTANA

T. 33 N., R. 32 E.,
Sec. 26, S½SW¼; and
Sec. 35, SE¼SE¼.

This amendment consists of a tie-in site 100 feet by 100 feet and 1,286.23 feet of pipeline in Sec. 26, and 1,569.47 feet of pipeline in Sec. 35. This entire system will be used to gather natural gas from wells in Phillips County, Montana, and convey it to an existing transmission line.

The purpose of this notice is to inform the public that the Bureau will proceed with consideration of whether the application and the amendment 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, Drawer 1160, Lewistown, Montana 59457.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-14163 Filed 5-17-77;8:45 am]

[NM 30517 and 30518]

NEW MEXICO

Applications

MAY 11, 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), Transwestern Pipeline Company has applied for one 6-inch and one 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 16 S., R. 25 E.,
Sec. 21, W½SE¼ and SE¼SE¼;
Sec. 27, SW¼NW¼ and SW¼.
T. 18 S., R. 28 E.,
Sec. 12, E½NE¼ and NE¼SE¼.
T 18 S., R. 29 E.,
Sec. 7, lots 3 and 4;
Sec. 18, NE¼SW¼.

These pipelines will convey natural gas across 2.576 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.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-14164 Filed 5-17-77;8:45 am]

[NM 30520]

NEW MEXICO

Application

MAY 11, 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), Natural Gas Pipeline Company of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 29, E½SW¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.461 of a mile of national 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 applications should be approved, and if so, under what terms and conditions.

Interested person 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.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-14165 Filed 5-17-77;8:45 am]

[NM 30334]

NEW MEXICO

Application

MAY 10, 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 one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 12 W.,
Sec. 20, E½NE¼.

This pipeline will convey natural gas across 0.235 of a mile of national resource land in San Juan 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 Mangement, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-14166 Filed 5-17-77;8:45 am]

[NM 30516]

NEW MEXICO

Application

MAY 10, 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), Northern Natural Gas Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 37 E.,
Sec. 5, SE¼SW¼.

This pipeline will convey natural gas across 0.151 of a mile of national resource land in Lea 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.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-14167 Filed 5-17-77;8:45 am]

[OR 5508]

OREGON

Order Providing for Opening of Public Lands

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 (1964), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 24 S., R. 14 E.,
Sec. 33, NW¼NW¼;
Sec. 34, NE¼NW¼;
Sec. 36, NE¼SW¼, S½SW¼, and SE¼.
T. 24 S., R. 15 E.,
Sec. 36, NW¼NE¼, S½NE¼, NW¼, NW¼SW¼, SE¼SW¼, and SE¼.
T. 25 S., R. 15 E.,
Sec. 16.
T. 24 S., R. 16 E.,
Sec. 36, N½NE¼, SE¼NE¼, NW¼, and S½.
T. 20 S., R. 16 E.,
Sec. 36, N½NE¼, and SE¼NE¼.
T. 27 S., R. 19 E.,
Sec. 25, SE¼.
T. 29 S., R. 22 E.,
Sec. 16.
T. 34 S., R. 22 E.,
Sec. 36.
T. 35 S., R. 23E.,
Sec. 36, lots 1, 2, 3, and 4, N½, and N½S½.
T. 39 S., R. 23 E.,
Sec. 16, except 4.33 acres in highway right-of-way conveyed to the State of Oregon by deed recorded June 21, 1950, at Page 315, Book 108, Record of Deeds, Lake County, Oregon.
T. 39 S., R. 24 E.,
Sec. 16, lots 2, 3, and 6.
T. 30 S., R. 25 E.,
Sec. 16.
T. 29 S., R. 26 E.,
Sec. 16;
Sec. 36.

The areas described aggregate, after making the aforesaid exception, 6,998.92 acres in Lake and Harney Counties.

2. The subject lands consist of widely scattered parcels generally located in northern and eastern Lake County and in western Harney County. Elevation ranges from 4,000 to 6,500 feet above sea level, and the topography varies from generally flat to steep and rocky. Vegetation consists primarily of sagebrush and native grasses with juniper and ponderosa pine on a few parcels. In the past, the lands have been used for livestock grazing purposes, and some parcels have wildlife habitat and outdoor recreational values. The lands 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 lands described in paragraph 1 hereof are 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 16, 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 lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-14168 Filed 5-17-77;8:45 am]

[Cheyenne 041555—Amend.]

WYOMING

Application

MAY 10, 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 Northern Utilities, Inc., of Casper, Wyoming filed an application for an amendment to existing right-of-way Cheyenne 041555 to construct a sixteen inch natural gas pipeline for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 34 N., R. 89 W.,
Sec. 31, Lot. 3.
T. 33 N., R. 90 W.,
Sec. 4, Lot 1.
T. 34 N., R. 90 W.,
Sec. 33, SE¼SE¼;
Sec. 34, SW¼SW¼;
Sec. 35, S½S½.

Northern Utilities, Inc., seeks to amend its existing right-of-way No. C-041555 the primary purpose being to construct, operate, and maintain approximately 17,000 feet of 16" natural gas pipeline commencing in the NW¼ of section 4, T. 33 N., R. 90 W., and extending to the east a distance of 17,000 feet to terminate in the SW¼ of sec. 31, T. 34 N., R. 89 W., all in Fremont County, Wyoming. This pipeline will be qualified by pressure testing and tied-in to existing pipelines.

There are presently three natural gas pipelines located in the right-of-way (C-41555). One pipeline is a bare ten inch pipeline, the second is a bare fourteen inch pipeline, and the third is a coated sixteen inch pipeline. It is not economically or practically feasible to up-grade the existing bare pipeline and, therefore, it is necessary to replace them with a single sixteen inch pipeline.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-14169 Filed 5-17-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 16284]

LANDS IN ROUTT COUNTY, COLORADO

Coal Lease Offering Rescheduled

MAY 13, 1977.

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado. Notice is hereby given that, due to circumstances requiring reconsideration of sales procedures and lease terms, the May 25, 1977 coal lease offering published in FEDERAL REGISTER Vol. 42, No. 69, April 11, 1977 at page 18905 is rescheduled for June 21, 1977.

JACK G. LORTS,
Chief, Division of Technical Services.

[FR Doc.77-14354 Filed 5-17-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

Patuxuent Wildlife Research Center
U.S. Fish and Wildlife Service
Laurel, Maryland 20811
Lucille F. Stickel, Director.

OMB NO. 42-R1673

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate by one) ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
This is a request FOR A permit to allow scientific study of the eastern timber wolf (Canus lupus lycaon) involving procedures listed in the attachment (some of which was previously carried out under permit no. PRT-8-50-C).

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Patuxent Wildlife Research Center
U. S. Fish and Wildlife Service
Laurel, Maryland 20811

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Wildlife research to enhance the status of endangered and threatened species by scientific research.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Lucille F. Stickel, Director, 301-776-4880

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Primarily the Carlos Avery Wildlife Management Area game farm facilities, (Minnesota Department of Natural Resources), Forest Lake, Minnesota, but possibly also the U.S. Veterans Administration Hospital, Minneapolis, the St. Paul Zoo in St. Paul, Duluth Zoo, in Duluth, or the Minnesota State Zoo in Apple Valley, Minnesota.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT 8-85-C, PRT 8-169-C, PRT 2-913-BA, PRT 8-86-B-C, PRT 8-50-C, PRT 2-197

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Permit issued by the State of Minnesota. No. 2588.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: May 1, 1977

11. DURATION NEEDED: December 31, 1979

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Lucille F. Stickel
DATE: 3/14/77

3-200 (5/74) GPO 895-042

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

PRT 2-695-C07

TO : Chief, Permit Branch
Federal Wildlife Permit Office

DATE: April 19, 1977

84/21

FROM : Director, Patuxent Wildlife Research Center

SUBJECT: Additional information needed for wolf research permit

The following additional information is provided in response to your request of April 12, 1977, concerning the processing of FWS/WPO PRT 2-695-C07.

Item 1. Shipping containers

The wolf will be transported in either of two ways: (1) anesthetized and muzzled in aircraft or vehicles, or (2) for longer distances in canine transport cages (9 gauge welded wire, approximately 44" x 27" x 22") with floor. Food will not be supplied during transportation for the safety of the animals, and water will be supplied as necessary to caged animals.

Item 2. Importation from Canada

Importation from Canada will be through a port of entry unless later requirements dictate otherwise, in which case an exemption will be sought at that time.

Item 3. Permits from Canada

Your instructions have been provided Dr. David Mech and he will make use of them in requesting necessary permits from Canada.

Thank you for guidance in indicating the types of information needed for the issuance of a permit to conduct research on endangered wolves.

Lucille F. Stickel

Lucille F. Stickel

APPLICATION FOR AN ENDANGERED SPECIES PERMIT FOR SCIENTIFIC PURPOSES

The following information is as requested, item for item, under Section 17.22 of 50 CFR 17 (p. 14):

(1) Eastern timber wolf (*Canis lupus lycaon*), Gray wolf (*Canis lupus*). Application is for (A) the live-trapping, anesthetizing, ear-tagging, radio-collaring, blood sampling, urine-sampling, biopsying, hair-sampling, saliva-sampling, fecal-sampling, dyeing (for identification), radio-tracking and observing (from the ground and air), photographing, and otherwise non-fatally investigating allages and both sexes of as many wolves in the wild as is necessary to fulfill the obligations of official USFWS studies; and temporary processing, holding, transporting, (inter and intrastate) and releasing these animals back into the wild, in their original range; and (B) holding captive and observing, anesthetizing, blood sampling, dyeing, ear-tagging, tattooing, urine-sampling, biopsying, hair-sampling, saliva-sampling, fecal-sampling, photographing, and otherwise studying as many pre-act wolves and their offspring as is necessary to fulfill the obligations of official USFWS studies; and (C) holding captive and observing, transporting, anesthetizing blood-sampling, dyeing, ear-tagging, tattooing, urine-sampling, biopsying, hair-sampling, saliva-sampling, fecal-sampling, photographing, and otherwise studying up to 30 post-act, captive-raised wolves of all ages and both sexes; and (D) live-trapping in the wild, anethetizing, transporting, holding captive, and studying as above, up to 30 wild wolves and their offspring, of all ages and both sexes; and (E) exporting, importing, and releasing into the native range of the subspecies up to 50 live-trapped wild wolves of all ages and both sexes to and from Canada and the U.S., for experimental studies or reintroduction attempts; and (F) the collecting, transporting, and holding of scientific specimens from any wolf carcass.

(2) All animals mentioned above are still in the wild except: 2 wild-caught and held under Permit PRT-8-50-C and Amendment No. 1 and various pre-act captive-raised individuals and their offspring.

(3) All wolves studied in captivity would be captive-raised except when circumstances require wild-caught wolves only.

(4) The two wild-caught wolves mentioned above were live-trapped in Minnesota, USA.

(5) Primarily the Carlos Avery Wildlife Management Area game farm facilities (Minnesota Department of Natural Resources), Forest Lake, Minnesota; but also possibly the U.S. Veterans Administration Hospital, Minneapolis, Minnesota, the St. Paul Zoo, St. Paul, Minnesota, Duluth Zoo, Duluth, Minnesota, or the Minnesota State Zoo, Apple Valley, Minnesota.

(6) (i) See attached diagrams; (ii) will be cared for by professional biologists, graduate students, and/or game farm or zoo personnel, all of whom have technical expertise in the care, raising, handling, feeding and other requirements of the species; (iii) will cooperate in a captive breeding program and contribute data to a studbook; (iv) see diagram; watering, feeding, and care will be provided as in (6-ii) above; and (v) 4 animals lost during last 5 years as follows:

1. one wolf killed its kennel-mate
2. one wolf lost to oral anesthetic.
3. two wolves were shot after escape.

Use of oral anesthetic has been discontinued, kennels have been reinforced.

(7) See work units—Endangered Wildlife Research Program, Patuxent

(8) Same as 7; any leftover wolves will be donated to other studies, to zoos, or will be humanely disposed of and specimens collected for scientific purposes.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-695-C07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14126 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

University of Florida
Department of Zoology
511 Bartram Hall
Gainesville, Florida 32611.

OMB NO. 42-R1675

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): [ ] IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To determine habitat occupancy and boundaries of sea turtles along the fringe reef system; individuals will be tagged. These techniques require captive and short-time restraint.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Thomas Carr (904) 392-1250
511 Bartram Hall
Department of Zoology
University of Florida
Gainesville, Florida 32611

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT: 6'2" WEIGHT: 175 lbs.
DATE OF BIRTH: March 15, 1948 COLOR HAIR: blonde COLOR EYES: blue
PHONE NUMBER WHERE EMPLOYED: (904) 392-1250 SOCIAL SECURITY NUMBER: 267-82-7437
OCCUPATION: Environmental consultant
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: N/A

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: N/A
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (904) 392-1250
Dr. Archie Carr, Principal Investigator
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Culebra Island, Puerto Rico

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [X] NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: N/A

10. DESIRED EFFECTIVE DATE: June 1976

11. DURATION NEEDED: July 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Section 17.22 Permits for scientific purposes or for the enhancement of propagation or survival.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Thomas Carr
DATE: March 8, 1977

3-200
10/74

Section 17.22 Permits for scientific purposes or for the enhancement of propagation or survival.

(1) Those species to be covered by Permit are as follows: Green turtle (*Chelonia mydas*), Hawksbill turtle (*Eretmochelys imbricata*) Loggerhead turtle (*Caretta caretta*), Leatherback turtle (*Dermochelys coriacea*), Ridley turtle (*Lepidochelys kempii*). *Sex and age groups to be captured:*

Both sexes will be taken.

All age groups encountered will be tagged and code-marked. The prevalent age groups are the yearling to three-year-old occupants of the reef-system habitats:

(2) All specimens being studied are still in the wild.

(3) To be taken underwater, to be netted, and to be tagged while nesting on the beach.

(4) N/A.

(5) Not to be removed from Culebra area.

(6) N/A.

(7) See attached Memorandum.

(8) (i) To capture, measure and tag all species of marine turtles found in Culebra Island area.

(ii) Individuals will be captured by hand, using diving gear, by nets or when found on beaches nesting.

(iii) All activities covered by permit are for the purpose of completing contract for the U.S. Dept. of the Interior, Fish and Wildlife Service entitled Ecology, Seasonality and Populations Levels of Marine Turtles and Terrestrial Reptiles at Culebra Island.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-725-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14127 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
International Crane Foundation
City View Road
Barboo, Wisconsin 53913.
Mildred L. Zantow, Administrator.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
[ ] IMPORT OR EXPORT LICENSE [XX] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Importation of one (1) Japanese crane (Grus japonensis) for propagation and scientific research purposes at Baraboo, Wi

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
International Crane Foundation
City View Road
Baraboo, Wisconsin 53913

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
International Crane Foundation Research Center

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Non-profit research center for propagation of cranes
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 608-356-3553
Mildred L. Zantow, Administrator
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED Wisconsin

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Headquarters of International Crane Foundation at City View Road, Baraboo, Wisconsin

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(*If yes, list license or permit number(s)*)
PRT-2-632 PRT-2-661-07

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [XX] YES [ ] NO
(*If yes, list jurisdictions and type of documents*)
Export permit from USSR (Moscow Zoo has required permit)

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE July 20, 1977

11. DURATION NEEDED until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. See attached information CFR 17.22 this permit request is for both Endangered Species and Conv. Must cover the return of the carcass in case the crane dies.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Mildred L. Zantow, Administrator
DATE April 18, 1977

3-200 (6/74) GPO 895-042

CFR 17.22 Submitted under "Rules and Regulations" Title 50, Federal Register, Endangered and Threatened Wildlife and Plants.

1. To import 1 Japanese Crane (female) (*Grus japonensis*) for propagation purposes.

2. Crane is now in captivity having been removed from the wild. This crane is the possession of the Moscow Zoological Park, Moscow, Russia.

3. The only supply of these cranes is from the wild or from collectors who have breeding stock in their possession.

4. The exact location of removal from the wild is not known at the International Crane Foundation.

5. The crane covered by this permit is in the possession of the Moscow Zoological Park. The subject crane will be on loan to the International Crane Foundation for breeding purposes and progeny will be divided and returned to Russia.

6. (i) ICF has well-built, modern facilities for keeping and raising cranes. There is a well-appointed incubator and brooder room designed especially for hatching and rearing very young cranes, as well as a specially designed building for raising older crane chicks. A nine acre field is available for immature and non-breeding cranes. There is finally a series of large, specious pens for individual pairs of cranes (see photographs already on file at USDI). Each pen has a 15' x 15' shelter where the birds are protected from wind, harsh weather and intrusion from wild predators. Pens are covered with net to prevent birds from flying into the pens or the captive bird from trying to escape.

(ii) The staff at ICF has had many years experience breeding and raising cranes. ICF was founded in 1973 and since that time more than 45 cranes have been hatched and reared at its facilities. Before that time, ICF's director of propagation, George Archibald, spent more than nine years working with cranes, including hatching and raising young birds.

(iii) The International Crane Foundation maintains at present several contracts with zoos in this country and abroad for trade and cooperative breeding programs for cranes. ICF is always willng to participate in breeding programs and files data on its cranes with the studbook of Dr. Asakura at the Tama Zoological Park in Tokoyo, Japan.

(iv) This crane will be transported in a crate with plenty of room and air for comfort. This type of crate has been used unversally for transportng cranes. This crane will be flown from Moscow, Russia directly to New York and will not need provisions for food and water enroute. The Globe Customs Broker in New York will transport the crane immediately to the quarantine facility in Clifton, NJ where food and water will be provided.

(v) Japanese Cranes (*Grus japonensis*) have been kept at ICF and we have had 4 fatalities as follows:

No. 1. Female, adult. Killed by male Japanese Crane during acclimatization period.

No. 2. Male, adult. Died of liver carcinoma.

No. 3. Male, adult. Died of shock following an operation to repair an injured wing.

No. 4. Chick, unsexed. Died of hemorrhage at age of 3 weeks.

Fatality No. 1 might possibly have been avoided had the female been separated for a longer time from the male before the birds were introduced to each other. However, they were separated for one month previous to the death of the female and showed no obvious aggression when placed in adjoining pens. Male Japanese crane No. 2 died shortly after of a liver carcinoma. It is possible that his agressiveness was the result of chronic illness.

The International Crane Foundation has bred and raised 5 Japanese chicks.

Progeny from the subject Japanese Crane will be divided per loan agreement and those belonging to USSR will be shipped to them, and ICF portion will be used for restocking back to the natural habitats.

Dr. George Archibald is a PhD from Cornell University, New York. He has studied and researched cranes in many countries of the world. At the present time he has 14 of the 15 species of cranes in his care at the International Crane Foundation. Dr. Archibald is considered an authority on crane care and propagation.

Permission is requested to export the carcass of this crane in the event it should die while on loan to the International Crane Foundation. The Moscow Zoolgical Park requests the remains be returned to them.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-761-C07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14128 Filed 5-17-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

John Norman Rinne
Rocky Mountain Forest & Range Experiment Station
Forest Hydrology Lab, ASU
Tempe, Arizona 85281.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Scientific Research
Evaluate habitat requirements of Gila trout
Take, transport, and hold in lab 50 live Gila trout
Sacrifice a maximum of 200 Gila trout for food habit, taxonomic and chromosome study

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
John Norman Rinne
Fisheries Biologist
Rocky Mountain Forest & Range Experiment Station, Forest Hydrology Lab, ASU
Tempe, Arizona 85281

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6' 1" WEIGHT: 175 lbs.
DATE OF BIRTH: 3-19-44 COLOR HAIR: Brown COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 261-4365(FTS) SOCIAL SECURITY NUMBER: 506-56-2805
OCCUPATION: Fisheries Research Biologist

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
USDA, U.S.Forest Service; responsible for protection and management of range, watershed, and wildlife on National Forests.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Arizona and New Mexico
Gila, (including Gila Wilderness & Black Range Primitive Areas), Apache-Sitgraves, Prescott, and Coronado National Forests, Fort Apache-Indian Reservation.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THIS ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Arizona Game and Fish, Management & Research Permit#154. NM-Game & Fish Dept. Permit-in application

9. CERTIFIED CHECK OR MONEY ORDER (if any, state) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: N/A

10. DESIRED EFFECTIVE DATE: IMMEDIATELY

11. DURATION REQUIRED: Through calendar yr. 1980

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THIS TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: Attachments as itemized under 17.22a of Title 50, "Rules and Regulations", Part 17, Subpart C.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): DATE:

3-200 16/74 GPO 832-042

Item 12

Attachment to Permit Application for Gila Trout

by

John N. Rinne

As listed under 17.22 in Title 50, Part 17, Subpart C, "Rules and Regulations". Federal Register, 40(188): 44424, Friday, September 26, 1975.

Item.—1. Gila trout; *Salmo gilae* Miller.

Activity	Number	Age	Sex
Take and return to stream alive in habitat evaluation.	(1)	All	Both.
Sacrifice for food habit, chromosome, and taxonomic studies.	200	All	Do.
Take alive for temperature tolerance.	50	All	Do.

[1] Estimated hundreds.

2. i. All Gila trout applied for in this application are yet in the wild.

3. Experience with capture and handling of several hundred Gila trout occurred during one week in summer 1976. This involved electrofishing, holding alive while measuring and weighing, and then returning fish alive to the stream. No mortality occurred.

The applicant has had extensive experience with collection and handling of fishes in the Southwestern U.S. and in East Africa (see reprints enclosed). Capture. handling, tagging, and release activities were conducted with about 10,000 individual fishes over a two-year period in Lake Victoria. In the past few months he has set up holding facilities (see enclosed photos of Forest Hydrology greenhouse) for rainbow trout, and other native, southwestern fishes.

4. Not applicable.

5. a. Address: Forest Hydrology Laboratory, Arizona State University, Tempe, Arizona 85281,

b. The forest Hydrology Laboratory greenhouse will, in part, house live specimens for temperature tolerance studies. In addition, Laboratories in the Life Sciences Center (ASU) will be used (see photographs enclosed for facilities). Sacrificed specimens will be deposited in the fish museum of the Department of Zoology at Arizona State University and/or a major recognized musuem in the U.S.

6. i. The new life sciences building on the ASU campus is equipped with many aquaria, forced air, controlled temperature and photoperiod units, and backup generator facilities. The Forest Hydrology greenhouse is less elaborately equipped at present but will be designed to hold trout for short periods of time (see photos enclosed).

ii. See item 3 above. In addition, Dr.(s) W. L. Minckley and S. D. Gerking of the Zoology Department at Arizona State University who have had extensive experience in handling and experimentation with live fishes will be consulted for transportation, handling, holding activities, and experimentation with Gila trout.

iii. Not applicable.

iv. Holding tanks and aquaria are constructed of fiberglass and glass (see photographs enclosed). Transportation of fishes from the field to the lab will be in styrofoam or thermos coolers with aeration provided by DO tabs or pumps. Fishes will be held in tanks and raceways and cared for and monitored by the applicant and technicians under his advice and that of the professors listed above.

v. None involved.

7. Personnel involved with handling, collecting, and holding of Gila trout will be the applicant and individuals under his immediate supervision. These will include station technicians, professors in the field of genetics and cytology in the ASU Department of Zoology and as indicated above, Dr.(s) Minckley and Gerking who will serve as consultants.

Copies of the study plan prospectus, study plan, and pertinent correspondence are attached. The study will begin upon granting of a permit and last until 1980.

8. Justification statement: The above research activities by the applicant at the Tempe Station of the Rocky Mountain Forest and Range Experiment Station is justified on the basis of Section 7 of the Endangered Species Act of 1973. This species of fish inhabits only National Forests, Wilderness, and Primitive areas. The Rocky Mountain Station as a research branch of the U.S. Forest Service has the responsibility to provide information which will aid in protection, maintenance, and enhancement of this natural resource.

i. These are included within the study plan (enclosed)

ii. These are included within the study plan (enclosed)

iii. These are included within the study plan (enclosed)

iv. All specimens of Gila trout sacrificed will ultimately be deposited in the Arizona State University or another major U.S. fish museum. Fish alive following temperature tolerance studies will be returned to the wild. Museums (preserved material) and localities (live fish) selected will follow directives of the Recovery Team for this species and the State Game and Fish Departments.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-649-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14138 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
George Speidel, Director
Milwaukee County Zoological Park
10001 W. Bluemound Road
Milwaukee, Wisconsin 53226

CASE NO. 42-R5470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[ ] IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Transport two (2) male Cotton-top Marmosets from Rochester, NY to Milwaukee, WI for public display and propagation.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Milwaukee County Zoo
10001 West Bluemound Road
Milwaukee, WI. 53226
(414) 771-3040

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Non-profit, county owned and operated public Zoological Park.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PROVOST, OFFICER, DIRECTOR, ETC. (414) 771-3040
George Speidel, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Interstate shipment from Rochester, NY to Milwaukee, WI

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit number)
See attachment #5

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of documents)
Permit applied for from state of NY by owner, Kenneth J. Fess

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: 30 days

11. DURATION NEEDED: Permanent

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.11(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Geo. Speidel | DATE 1/25/77

3-200 (6/74)

PARK COMMISSION,
Milwaukee County, Wis.,
January 25, 1977.

DIRECTOR,
Department of the Interior,
U.S. Fish and Wildlife Service,
Washington, D.C. 20240.

DEAR SIR: Pursuant to the Code of Federal Regulations, Title 50, we hereby respectfully apply for a permit to transfer and keep endangered wildlife for the Milwaukee County Zoo.

In accordance, and to comply with all regulations affected, we include the following documentations:

1. Original of Form 3-200, Federal Fish and Wildlife License/Permit Application, duly completed and signed by the Zoo Director.

2. Official name and address: The Milwaukee County Zoo, 10001 West Bluemound Road, Milwaukee, Wisconsin 53226.

3. Name of Zoo Director: George Speidel.

4. Name and scientific name of animals: 50 CFR Sec. 17.23 A-1. Two (2) male Cotton-top Marmoset (Saguinus oedipus). Born 12/21/74 and 12/27/75 at Rochester, NY. See attachment No. 1.

5. Copy of contract (letter) in which the Milwaukee County Zoo agrees to purchase 2.0 Cotton-top Marmoset from Kenneth J. Fess, Marmoset Breeding Farm, Rochester, NY. 50 CFR 17 Sec. 17.25 A-2. See attachment No. 2.

6. Purpose of the permit: To transport, exhibit and propogate the Cotton-top Marmoset at the Milwaukee County Zoo. 50 CFR 17 Sec 17.25 A-3.

7. The Cotton-top Marmosets were born on 12/21/74 and 12/27/75 at Rochester, NY. 50 CFR 17 Sec 17.23 A-5. See attachment No. 1.

8. Description and drawing where wildlife is to be held. 50 CFR 17 Sec 17.23 A-7 No. 1. See attachment No. 3.

9. The technical expertise: The Milwaukee County Zoo presently has: two (2) female Cotton-top Marmosets (Saguinus oedipus). There has been five (5) births of this species at the Milwaukee County Zoo in the past. 50 CFR 17 Sec 17.23 A-7 No. 2.

10. The Milwaukee County Zoo is willing to participate in breeding loans to other approved zoos as evidenced by the enclosed list of breeding loan animals. 50 CFR 17 Sec 17.23 A-3. See attachment No. 4.

11. Animals to be shipped via air carrier direct to Chicago via United Airlines, Flight #899, leaving Rochester at 10:15 a.m. and arriving at Chicago-O'Hare at 10:54 a.m. Animals will be picked up at O'Hare Field by Milwaukee County Zoo staff. 50 CFR 17 Sec 17.23 A-4. See attachment No. 2.

12. A report will be sent to the Director within ten days of receiving the animals covered in the permit. The Milwaukee County Zoo further agrees to report immediately any deaths or escapes, and also agrees to make the remains available to interested institutions for scientific use. 50 CFR 17 Sec 17.23 B-1 and B-2.

13. The desired effective date of permit is 30 days from application date.

14. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Dated this 25th Day of January, 1977.

GEORGE SPEIDEL,
Zoo Director,
Milwaukee County Zoo.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-618-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Fish and Wildlife Service.

[FR Doc.77-14139 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

Equitable Environmental Health, Inc.
455 Fullerton Avenue
Elmhurst, Illinois 60126.
Dr. James E. Brower, Director.

OMB NO: 42-R1670-

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[ ] IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
New Site Survey for Proposed Generating Station. Would be conducting a mussel survey at 6 locations two different times. Possibility that we may collect Lampsilis higginsi. We would, however keep only one or two specimens for taxonomic verification. Remainder would be returned to river live.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Equitable Environmental Health Inc.
455 Fullerton Avenue
Elmhurst, IL 60126

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] MR. [ ] MRS. [ ] MISS. [ ] MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Environmental Consulting Firm

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 312 - 832-9880
Dr. James E. Brower, Director, BioTogical Sciences

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
New York

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Mississippi River between River Miles 446 and 456 near Muscatine, Iowa

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
(If yes, list license or permit numbers).

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? N/A [ ] YES [ ] NO
(If yes, list jurisdictions and type of documents).

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
April 20, 1977

11. DURATION NEEDED
6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED; IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22 a.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) James E. Brower | DATE 3/15/77

3-200 (6/74)

*Attachment

ATTACHMENT

(1) Possible collection of Higgins' Eye pearly mussel (*Lampsilis higginsii*)—only references specimens would be retained—any others would be returned to the water.

(2) Wildlife which may be collected is still in the wild.

(3) Collections would be made by diver—no dredges would be utilized except possibly a crowfoot bar.

(4) N/A.

(5) Reference specimens would be maintained at the Chicago Regional Office listed as No. 3 on application.

(6) N/A.

(7) The collection activity is in the proposal process and would be contingent only upon our receipt of a contract. Copies of the contract would be forwarded upon receipt.

(8) Collection is conjunction with an environmental site survey of a proposed new generating facility would be to establish if, in fact, *Lampsilis higginsii* is present in an area which would be impacted by construction or operation activities. If so, recommendations would be made to modify those activities and/or relocate certain structures so as to mitigate any effects upon the population, if present, in the area.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-722-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Date: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14140 Filed 5-17-77;8:45 am]

National Park Service

PROPOSED ACCEPTANCE OF HISTORIC PRESERVATION EASEMENTS, GREEN SPRINGS HISTORIC DISTRICT

Policies and Procedures

The Secretary of the Interior is currently considering the acceptance of several historic preservation easements pertaining to certain properties located within the Green Springs Historic District pursuant to the Historic Sites Act of 1935, 49 Stat. 666, 16 U.S.C. 461 et seq. The policies and procedures for the Green Springs proposal are as follows:

1. Offer to donate historic preservation easements to the United States by private individuals or organizations (accomplished).

2. Review of offered easements to determine if their acceptance will significantly contribute to the preservation of those values which are fundamental to the Green Springs Historic District as recognized by national landmark designation (staff study of general sufficiency of the easements completed).

3. Preparation of environmental assessment and subsequent promulgation of environmental impact statement or notice of negative declaration, as appropriate. In connection with preparation of assessment, hold a public hearing (accomplished).

4. If an environmental impact statement is determined to be required upon completion of the environmental assessment, follow usual impact statement procedures.

5. If a notice of negative declaration is determined to be appropriate upon completion of the environmental assessment, publish notice of such in the FEDERAL REGISTER, circulate it to interested persons (by letter, press releases, etc.) and promptly hold a public meeting to discuss and explain the environmental assessment and to receive additional public comment on the proposal prior to final decision.

6. At least 30 days after publication of the notice of negative declaration or notice of final environmental impact statement, as the case may be, make the final decision, with the Secretary determining whether or not the acceptance of the Green Springs historic preservation easements will significantly contribute to the preservation of those values which are fundamental to the

Green Springs Historic District as recognized by national landmark designation.

Dated: May 13, 1977.

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc.77-14150 Filed 5-17-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. LAKE COUNTY CONTRACTORS ASSOCIATION, INC. AND LAKE COUNTY CONTRACTORS DEVELOPMENT ASSOCIATION, INC.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and a competitive impact statement (CIS) as set out below have been filed with the United States District Court for the Northern District of Illinois, Eastern Division, in *United States of America v. Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Civil Action No. 76 C 1860. The complaint in this case alleged that the two construction industry trade association defendants violated Section 1 of the Sherman Act by entering into bid support agreements with general contractors doing business in Lake County, Illinois. These agreements had the effect of raising bid prices on the construction projects to which they applied. The proposed judgment perpetually enjoins both defendants from entering into bid support agreements or from following any practice, plan, or program having a similar purpose or effect. The CIS describes the terms of the judgment and the background of the action and concludes that the relief obtained does not differ in any important ways from that sought in the complaint. Public comment is invited on or before July 6, 1977. These comments and the Department of Justice's responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John E. Sarbaugh, Chief, Midwest Office, Antitrust Division, Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604.

Dated: May 6, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgment and Judgment Enforcement Section, Antitrust Division.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

United States of America, Plaintiff, v. *Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Defendants.

Civil Action No. 76 C 1860.

Filed: May 6, 1977.

Entered: _____

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shal be of no effect whatever and the making of this stipulation shall be without prejudice to the plaintiff and defendants in this and any other proceeding.

For the Plaintiff: Donald I. Baker, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Elizabeth B. Wurzburg, John E. Sarbaugh, Francis C. Hoyt, James J. Kubik, *Attorneys*, Department of Justice, Rm. 2634 Everett M. Dirksen Building, Chicago, Illinois 60604 (312-353-7523).

For the Defendants: Edward H. Hatton, Theodore R. Tetzlaff, Robert A. Spanner, *Jenner & Block*, One IBM Plaza, Chicago, Illinois 60611 (312-222-9350).

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

United States of America, Plaintiff, v. *Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Defendants.

Civil Action No. 76 C 1860.

Filed: May 6, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on May 19, 1976, and defendants having appeared and filed jointly thier Answer to the Complaint denying the substantive allegations thereof, and the plaintiff and defendants, by their respective attorneys, each having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or an admission by any party hereto with respect to any such issue;

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties aforesaid, it is hereby

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;

(B) "Association Support Agreement" means an agreement or contract between a defendant and a General Contractor whereby the latter agrees that if it is the successful bidder on a construction project or projects in Lake County, Illinois, it will pay a fee to the defendant, one portion of said fee to be retained by the defendant and the other portion to be refunded or distributed by the defendant to the unsuccessful bidders on the construction project or projects to which the agreement or contract is applicable; and

(C) "General Contractor" means a person engaged in the business of constructing, altering, remodeling, building additions to, renovating, reconstructing, or repairing governmental and commercial buildings under direct contract with the owner or architect.

III

The provisions of this Final Judgment apply to the defendants and to their officers, directors, members, agents and employees, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is hereby:

(A) Required to eliminate all provisions that refer or relate to an Association Support Agreement from its constitution, bylaws, code of ethics or other rules and regulations;

(B) Enjoined from entering into, adhering to, enforcing, claiming any right under, or furthering an Association Support Agreement or any other agreement having similar terms or provisions, or following any practice, plan or program having a similar purpose or effect.

(C) Enjoined from collecting a fee, in the form of dues or otherwise, from a General Contractor based on the General Contractor's successful participation in the bidding on a construction project or projects (*Provided, however*, That nothing in this paragraph shall prevent a defendant from collecting a fee from a successful bidder in return for the performance of bona fide services to the bidder); and

(D) Enjoined from paying money to a General Contractor based on the General Contractor's unsuccessful participation in the bidding on a construction project or projects.

V

Each defendant is ordered and directed to:

(A) Serve a copy of this Final Judgment upon its officers, directors, employees, and members within thirty (30) days after the date of entry of this Final Judgment;

(B) File an Affidavit of Compliance with the Court, copy to plaintiff's attorneys, within sixty (60) days after the date of entry of this Final Judgment stating the fact and manner of compliance with paragraph V(A) above;

(C) Publish once a week for a period of six weeks in the Dodge Construction News, beginning within sixty (60) days after the entry of the Final Judgment, a notice which shall fairly and fully apprise the readers thereof of the substantive terms of this Final Judgment; and

(D) File an Affidavit of Compliance with the Court, copy to plaintiff's attorneys, within one hundred and twenty (120) days after the date of entry of this Final Judgment stating the fact and manner of compliance with paragraph V(C) above.

VI

For a perod of five (5) years from the date of entry of this Final Judgment, each defendant is ordered to file with the plaintiff, on the anniversary date of this Final Judgment, a report setting forth the steps it has taken during the prior year to advise its members and its appropriate officers, directors and employees of its and their obligations under this Final Judgment.

VII

(A) For the sole purpose of determining or securing compliance with this Final Judgment and for no other purpose:

(1) Duly authorized representatives of the Department of Justice shall, upon written

request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, servants, or employees of the defendant, who may have counsel present, regarding any such matters.

(2) Any defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to its principal office, shall submit such reports in writing, under oath if requested, wth respect to any of the matters contained in this Final Judgment as may from time to time be requested.

(B) No information or documents obtained by the means provided in this paragraph VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliances therewith and for the punishment of violations thereof.

IX

The entry of this Final Judgment is in the public interest.

Dated: _____

_____,
United States District Judge.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

United States of America, Plaintiff, v. *Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Defendants.

Civil Action No. 76 C 1860.

Filed: May 6, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h), Pub. L. 93-528 (December 21, 1974)), the United States of America hereby files this Competitive Impact Statement relating to the proposed final judgment in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDING

This is a civil antitrust action by the United States against the Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc., both of Waukegan, Illinois. The complaint, which was filed on May 19, 1976, alleges that the defendants have engaged in an unlawful combination and conspiracy to restrain interstate trade and commerce in the construction industry in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

The instant case was brought to terminate the alleged unlawful combination and conspiracy, to prevent its recurrence, and to prevent the perpetuation of its effects.

II

PRACTICES AND EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

A general contractor as defined in the complaint means a contractor or contracting firm engaged in the business of constructing, altering, remodeling, building additions to, renovating, reconstructing, or repairing governmental and commercial buildings under direct contract with the owner or architect. General contractors sometimes perform all phases of a given construction project, but usually they arrange with subcontractors for the performance of certain mechanical and other special items or phases of the project.

Both defendants are trade associations which have as members many of the larger contractors operating in Lake County, Illinois. They have the same officers and directors and are operated, according to the complaint, as a single entity.

Officers, directors, agents, representatives, and members of the two defendant associations, as well as general contractors operating in Lake County, Illinois, are included in the complaint as co-conspirators.

The complaint alleged a conspiracy commencing in or about the year 1947, by means of which the defendants requested any general contractor bidding on building construction projects in Lake County, Illinois, to enter into a bid support agreement (hereafter referred to as an "Association Support Agreement") whereby said contractor would agree that if he were awarded the bid he would pay a fee to the Lake County Contractors Development Association, Inc. Prior to 1972, this fee was paid to the Lake County Contractors Association.

It was further agreed that if any bidder refused to enter into an Association Support Agreement, all other bidders would be notified of this fact 24 hours prior to the time when bids were due and no agreement would be in effect with respect to the bidding on that construction project. It was also agreed that if all bidders agreed to pay a fee and if a fee was paid, the Lake County Contractors Development Association, Inc., would distribute one half of the fee equally among the losing bidders and would retain the remainder for its own use.

The complaint further alleged that total expenditures for construction projects in Lake County, Illinois, were in excess of $50,000,000 in 1974.

According to the complaint, the alleged conspiracy had the effect of restraining general contractors from freely competing for contracts on building construction projects in Lake County, Illinois, and caused the bidders' prices for such construction projects to be made higher by including therein the amount of the fee to be paid to the defendants.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and defendants have agreed that a final judgment, in the form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The stipulation provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the judgment is conditioned upon a determination by the Court that it is in the public interest.

Section IV(A) of the proposed final judgment requires each defendant to eliminate from its by-laws, constitution, code of ethics, or other rules all provisions that refer or relate to an Association Support Agreement. Section IV(B) enjoins the defendants from entering into, enforcing or claiming any rights under such an agreement, or any other agreement having similar terms or provisions, or from following any practice, plan, or program having a similar purpose or effect. Section IV(C) enjoins them from collecting a fee, in the form of dues or otherwise, from a general contractor based on the general contractor's successful participation in the bidding on a construction project but provides that they may charge a successful bidder a fee for performing bona fide services to the bidder. Section IV(D) enjoins the defendants from paying money to a general contractor based on the general contractor's unsuccessful participation in the bidding on a construction project.

The proposed final judgment expressly provides in Section III that its terms apply to the consenting defendants and each of their officers, directors, members, agents, employees, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of the terms of the judgment.

By its terms, the proposed final judgment perpetually restrains the prohibited conduct. As explained below, there are other provisions in the judgment that will terminate in a period of years.

Under the proposed final judgment, the defendants are obligated to take affirmative steps which are aimed at preventing any recurrence of the restraints on competition alleged in the complaint. Section V requires the defendants to serve a copy of the final judgment upon their officers, directors, employees, and members and to file an affidavit of compliance with the Court that they have fulfilled this requirement. They are also required to publish once a week for six weeks in the Dodge Construction News a notice describing the substantive details of the final judgment and to file an affidavit of compliance with the Court when they have complied with this requirement. In addition, pursuant to Section VI of the final judgment, each defendant is required for a period of five years to file with the plaintiff an annual report setting forth the steps it has taken during the prior year to advise its officers, directors, employees, and members of its and their obligations under the Final Judgment. Finally, under Section VII of the final judgment, the Department of Justice will have access, upon reasonable notice, to the records and personnel of the defendants in order to determine the defendants' compliance with the provisions of the final judgment, and under Section VIII of the final judgment, jurisdiction is retained by the

Court for the purpose of enabling any party to apply for such orders or directions as may be necessary to carry out the final judgment, for modification of any of its provisions, or for the punishment of violations of it.

IV

REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney's fees. Entry of the proposed final judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed final judgment will have no prima facie effect in any subsequent private lawsuit which may be brought against the defendants since it is a consent judgment that will be entered before any testimony has been taken.

V

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedure and Penalties Act, any person believing that the proposed final judgment should be modified may submit written comments to John E. Sarbaugh, Chief, Midwest Office, Antitrust Division, Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed final judgment at any time prior to its entry if it should determine that some modification of the final judgment is necessary.

VI

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of the proposed final judgment. The only injunctive relief requested in the complaint that is not included in the terms of the proposed final judgment is a provision prohibiting the defendants from accepting or retaining as members any individuals or firms participating in a bid support system (i.e., an Association Support Agreement) or similar arrangement. The Department of Justice has come to the conclusion that such a provision is not necessary and would be redundant because the proposed final judgment prohibits the defendants from entering into or furthering any Association Support Agreement or any other practice, plan, or program having a similar purpose or effect.

A proposal was submitted by the Midwest Office of the Department of Justice that the defendants be requested to file an annual report for 10 years setting forth the steps they have taken to comply with their obligations under the proposed final judgment. After negotiations with the defendants, this time period has been reduced to 5 years. This eliminates the administrative burden on the defendants but does not affect the requirement that the defendants take steps to advise their appropriate officers, directors, employees, and members of their obligations under the final judgment.

VII

OTHER MATERIALS

There are no materials or documents which the Government considered determinative in formulating this proposed final judgment. Therefore, none are being filed along with this Competitive Impact Statement.

JOHN E. SARBAUGH,
FRANCIS C. HOYT,
JAMES J. KUEIK,
Attorneys, Department of Justice.

[FR Doc.77-14087 Filed 5-17-77;8:45 am]

Drug Enforcement Administration

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By Notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16878-79), Stepan Chemical Company, Natural Products Dept., 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaf, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and, pursuant to Section 1008 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: May 12, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14202 Filed 5-17-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16879), Stepan Chemical Co., Natural Products, 100 W. Hunter Avenue, Maywood, New Jersey 07606, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Cocaine	II
Ecgonine	II

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: May 12, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14201 Filed 5-17-77;8:45 am]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Registration

By notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16878), the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic classes of controlled substances listed below:

S. B. Penick Co., a unit of CPC International Inc., 158 Mount Olivet Ave., New Jersey 07114 (Feb. 23, 1977):

Drug:	Schedule
Opium extracts	II
Opium fluid extracts	II
Opium powders	II
Opium granulated	II
Opium tinctures	II
Codeine	II
Fentanyl	II
Hydrocodone	II
Morphine	II
Oxycodone	II
Thebaine	II
Dihydrocodeine	II
Methadone	II
Methadone—intermediate	II
Pethidine	II
Phenazocine	II
Mixed Alkaloids of opium	II
Diphenoxylate	II
Concentrate of poppy straw	II
Alphacetylmethadol	I
Pholcodine	I

S. B. Penick & Co., a unit of CPC International Inc., 530 New York Avenue, Lyndhurst, New Jersey 07071 (2/23/77):

Drug:	Schedule
Methadone	II
Methadone—intermediate	II
Alphacetylmethadol	I
Concentrate of poppy straw	II
Diphenoxylate	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR Section 1301.54(e), the Acting Deputy Administrator hereby orders that the applications submitted by each of the above firms for registration as bulk manufacturers of the basic class of controlled substances listed therein are granted.

Dated: May 12, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14199 Filed 5-17-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

MEETING

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2). This document is intended to notify the general public of their opportunity to attend.

DATES: Meetings—June 14, 1977, from 8:30 a.m. to 5 p.m.; June 15, 1977, from 8:30 a.m. to 12 Noon.

ADDRESS: Davison Conference Center, University of Southern California, University Park, Los Angeles, California 90007.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 13th Street NW.; Suite 529, Washington, D.C. 20004. 202-376-8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meeting of the Council will be open to the public beginning at 8:30 a.m. on June 14, 1977, and ending 5 p.m.; and beginning at 8:30 a.m. on June 15, 1977, ending at 12 Noon. This meeting will be held at the Davison Conference Center, University of Southern California, University Park, Los Angeles, California 90007.

The proposed agenda includes:

1. Executive Director's Report
2. Action on previous meeting minutes
3. Committee discussions and reports
4. Review of legislative activities
5. Review of National University Community Services Program
6. Review of By-Laws
7. Election of Council officers
8. Committee appointments
9. Discussion of future actvities of the Council
10. Emerging issues of continuing education

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street NW., Washington, D.C.

Dated: May 9, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77-14088 Filed 4-17-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA WAGE COMMITTEE

[Notice 77-35]

Notice of Meeting

Pursuant to the provisions of Section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Aeronautics and Space Administration Wage Committee is scheduled for June 22, 1977, from 1:30 p.m. to 4:30 p.m. The meeting will be held in Room 226-B, 600 Independence Avenue SW., Washington, D.C. 20546.

The Committee's primary responsibility is to consider and make recommendations to the Director of Personnel, National Aeronautics and Space Administration, on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio, wage area pursuant to Public Law 92-392.

The approved agenda of the Committee provides that it will consider wage survey data, local reports, recommendations, and statistical analyses and proposed wage schedules derived therefrom.

Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be closed to the public.

However, members of the public who may wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, National Aeronautics and Space Administration Wage Committee, Mail Stop 3-9, Lewis Research Center, NASA, 21000 Brookpark Road, Cleveland, Ohio 44135.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

MAY 11, 1977.

[FR Doc.77-14103 Filed 5-17-77;8:45 am]

[Notice 77-36]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL INFORMAL COMMITTEE ON ROTORCRAFT TECHNOLOGY

Meeting

An informal Committee on Rotorcraft Technology of the Research and Technology Advisory Council will meet on June 21 and 22, 1977, at the NASA Ames Research Center, Moffett Field, California. The meeting will be held in Conference Room 213 of Building 200. The meeting will be open to the public on a first-come, first-served basis, up to the seating capacity of the room, which is about 25 persons. All visitors must report to the Ames Research Center Receptionist in Building 200.

The informal Committee on Rotorcraft Tehcnology of the Research and Technology Advisory Council is to identify needs and challenges in rotorcraft technology in relation to the nation's civil transportation system, the world marketplace, and in support of military needs. The Chairman of the committee is Mr. Robert R. Lynn.

For further inforcation, please contact John F. Ward (Area Code 202-755-2415) or C. Robert Nysmith, Executive Secretary, Research and Technology Advisory Council (Area Code 202-755-8550), NASA Headquarters, Washington, D.C. 20546.

JUNE 21, 1977

Time	*Topic*
8:15 a.m.	Registration.
9 a.m.	NASA remarks. (Purpose: To familiarize the committee participants with the scope of the committee role and its interaction with NASA technology planning and advocacy activities.)
9:30 a.m.	Description of NASA rotorcraft technology program, activities and plans. (Purpose: To describe the ongoing NASA technology activities; discuss the results of efforts to identify needs, opportunities, and benefits from the technology program; and discuss possible future thrusts.)
1:15 p.m.	Industry/Government presentations. (Purpose: To provide an opportunity for industry and Government committee members to present a brief statement of their view of the key rotorcraft technology needs.
2:45 p.m.	Group discussions: Aerodynamics, structures and materials, propulsion, operating systems. (Purpose: To address the degree to which NASA's ongoing and future rotorcraft program is responsive to the technology needs; and to provide recommendations on goals and options.)
4:15 p.m.	Groups formulate prioritized technology objectives.
4:45 p.m.	Adjournment.

JUNE 22, 1977

8:30 a.m.	Group reports. (Purpose: Present summaries of results of group discussions.)

Time	Topic
10 a.m.	General discussion. Purpose: To discuss the proposed NASA program goals in relation to prioritized technology needs.)
11:30 a.m.	Chairman's report. (Purpose: To present an initial summary of the results of the meeting, the consensus views and recommendations of the committee.)
12 m.	Adjournment.

MAY 12, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs National Aeronautics and Space Administration.

[FR Doc.77-14104 Filed 5-17-17;8:45 am]

[Notice 77-34]

SPACE PROCESSING AD HOC ADVISORY SUBCOMMITTEE

Meeting

The NASA Space Processing Ad Hoc Advisory Subcommittee of the Applications Steering Committee will meet at NASA Headquarters, 600 Independence Avenue, SW., Washington, D.C., on June 6-8, 1977. The meeting will be held in Room 226B of FOB 10B from 8 a.m. to 4:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for Materials Processing Investigations on Space Shuttle Missions. Discussion of the professional qualifications of the proposers and their potential scientific contributions to Materials Technology would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it is hereby determined that the sessions should be closed to the public.

For further information, please contact Mr. Mark B. Nolan, NASA Headquarters, Washington, D.C., at Area Code 202-755-3848.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

MAY 11, 1977.

[FR Doc. 77-14102 Filed 5-17-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE ON ETHICS AND VALUES IN SCIENCE AND TECHNOLOGY

Part-Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Committee on Ethics and Values in Science and Technology (EVIST) Meeting in Collaborative Session with the Advisory Committee on Science, Technology and Human Values (STHV) of the National Endowment for the Humanities.

DATE AND TIME: June 3, 1977, 9:30 a.m.

PLACE: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C.

TYPE OF MEETING: Part-Open

CONTACT PERSON: Dr. William A. Blanpied, Program Director, Ethics and Values in Science and Technology, Office of Science and Society, National Science Foundation, Washington, D.C., 20550 (Telephone 202/282-7770). Individuals planning to attend are requested to notify Dr. Blanpied by May 31.

PURPOSE OF ADVISORY COMMITTEE: To provide advice and recommendations concerning support of activities to explore the ethical and value issues associated with developments in science and technology, in conjunction with cooperative programs of the National Science Foundation (NSF) and the National Endowment for the Humanities (NEH).

AGENDA

9:30-12:30 A.M. (OPEN)

Reports and Discussion on NSF and NEH Programs; NSF-Office of Science and Society, Public Understanding of Science, Ethics and Values in Science and Technology, Science for Citizens; NEH—Program of Science, Technology and Human Values.

12:30-5:00 P.M. (CLOSED)

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. 522(b), Government of the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

Dated: May 13, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-14220 Filed 5-17-77;8:45 am]

ADVISORY PANEL FOR HISTORY AND PHILOSOPHY OF SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for History and Philosophy of Science.

DATE AND TIME: June 3 and 4, 1977—9 a.m. each day.

PLACE: Board Room, Institute for Advanced Study, Princeton, N.J.

TYPE OF MEETING: Open from 3 p.m. to 5 p.m., June 3, 1977. Closed 9 a.m.-3 p.m. June 3. Closed 9 a.m.-5 p.m. June 4.

CONTACT PERSON:
Dr. Ronald Overmann, Assistant Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, Telephone 202-632-4182.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF PANEL: To provide advice and recommendations concerning support research in history and philosophy of science.

AGENDA, CLOSED SESSION: To rereview and evaluate research proposals and projects as part of the selection process for awards.

AGENDA, OPEN SESSION: Suggestion and General Discussion by panel members of research topics which may deserve special emphasis.

REASON FOR CLOSING: The proposals being reviewed 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. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING. This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 13, 1977.

[FR Doc.77-14221 Filed 5-17-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

List of Requests

CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for for use in collecting information from the public received by the Office of Management and Budget on May 11, 1977 (44 U.S.C. 3509). The purpose of publishing this list

in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after the brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Support of Basic Research by Industry, single-time R. & D. performing companies, Charles Ellett, 395-5867.

DEPARTMENT OF COMMERCE

Economic Development Administration, community Emergency Drought Relief Program Application, ED-196, on occasion, State and local units of governments, Lowry, R. L., 395-3772.

Survey of Economic Development Evaluation Activities and Needs, ED-441Q, single-time, economic development organizations (public & private) economics and general government division, C. Louis Kincannon, 395-3451.

DEPARTMENT OF COMMERCE

Bureau of Census:

Reconciliation Questionnaire for Household Roster Check 1977 Census of Oakland, California, DH-132, single-time, households in Oakland with questionable population counts, George Hall, 395-6140.

REVISIONS

VETERANS ADMINISTRATION

Request for Information To Make Direct Payment to Child Reaching Majority, FL 21-863, on occasion, children of veterans, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service Regulations—Plant Variety Protection, 7 CFR 180, on occasion, seed firms, Warren Topelius, 395-5872.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration:

Cosmetic Raw Material Composition Statement, FD2513, on occasion, cosmetic raw material manufacturers and suppliers, Warren Topelius, 395-5872.

Discontinuance of Commercial Distribution of Cosmetic Product or Cosmetic Raw Material, FD2514, on occasion, cosmetic product, raw material manufacturers and distributors, Warren Topelius, 395-5872.

Cosmetic Product Ingredient Statement, FD 2512, on occasion, cosmetic manufacturers, packers and distributors, Warren Topelius, 395-5872.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Motor Vehicle Safety Regulation—Defect Reports, on occasion, motor vehicle manufacturers, Strasser, A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-14289 Filed 5-17-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13514; File No. SR-Amex 77-5]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change; Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 29, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change, as amended on April 29, 1977, as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposes to amend its Constitution, Rules and policies relating to membership to liberalize them in light of the 1975 Amendments to the Act, and to eliminate certain regulatory constraints on the capital-raising efforts of member organizations. The text of the proposed rule changes is attached as Exhibit A, and the terms of substance are summarized as follows:

(a) *General membership requirements*—(i) *Allied membership.* The definition of "allied member" would be changed to apply to any employee who is in a control relationship with a member organization. Principal executive officers and employees who are directors are presumed to control a member organization and would continue to be allied members, but the requirement that they be holders of voting stock would be deleted. (Article I, Section 3(c); Article IV, Section 1(c).)

(ii) *Approved persons.* Non-employees who are deemed to control a member organization would be required to become approved persons. Persons controlled by or under common control with a member organization who transact business generally as brokers or dealers in securities or act as investment advisors would also be required to become approved persons. (Article I, Section 3(g); Rule 310(e).)

(iii) *Age requirement.* The age requirement for applicants for members, officers and registered representatives, currently 21, would be changed to the minimum age required to be responsible for contracts in the jurisdictions in which such persons do business (Article IV, Sections 1(a)(2), 1(b)(2) and 1(d); Commentary .07 to Rule 341).

(iv) *Voting stock requirement.* The requirement that members (including the member qualifying a member corporation), directors and principal executive officers own voting stock in their member corporations would be deleted (Article I, Section 3(e); Article IV, Section 2(e)(1), and numerous conforming changes throughout the Constitution and Rules).

(b) *Foreign membership.* The proposed changes would remove the limit of 45% on the interest in a member organization's capital or profits which may be owned by a foreign entity, and would require that every member organization, except firms admitted prior to the effective date of the proposed amendments, be organized under the laws of, and have its principal place of business in, the United States (Article IV, Sections 1(a)(2), 1(b)(2), 2(m) and 2(n); Rule 319(c)).

(c) *Principal purpose of membership.* The Exchange proposes to re-phrase its requirements that members and member organizations be principally engaged in the securities business by eliminating reference to a "public" securities business test and providing only that an active securities business be the member or member organization's principal purpose. (Article IV, Section 2(d); Rule 314.)

(d) *Member organization capital.* A number of the proposed changes are designed to give member organizations greater flexibility in raising capital. These include the following:

(i) Removal of the distinction which places greater restrictions on member organizations whose securities are closely held than on those having freely transferable securities (Article IV, Sections 2(e), 2(h), 2(j) and 2(s), and numerous conforming changes).

(ii) Exchange approval of outside investors in a member organization would no longer be required unless the investors are in a control relationship with the member organization (Article IV, Section 2(h) and 2(k), Rule 310(e)).

(iii) Member organizations that act as registered traders and floor brokers would be permitted to raise capital by selling securities to the public (Article IV, Section 2(i)).

(iv) Principals of member organizations would no longer be required to have a fixed interest in the entire business of their member organizations (Article IV, Section 2(v)).

(v) The requirement that a qualifying member devote the major portion of his time to his member corporation would be eliminated. However, a member with supervisory responsibilities would continue to be required to devote his entire time during business hours to his organization (Article IV, Section 2(e)(4); Rule 342; and numerous conforming changes.)

(vi) Member organizations would be permitted to hire part-time registered representatives (Rule 342).

(vii) The present prohibition against a person being associated with more than one member organization would be eliminated; however, a member would not be permitted to use his membership to qual-

ify more than one member organization. In addition, no member could be associated with any registered broker/dealer without prior approval of the Exchange (Rules 313 and 342).

(viii) Limitations on the percentage of ownership and participation in profits of member organizations by outside investors would be eliminated (Rule 319(a)).

(e) *Member business connections.* A provision which now permits the Board of Governors to require members to sever business connections which may be detrimental to the Exchange or which may result in domination of a member or member organization by a non-member would be deleted (Article V, Section 7(a) and 7(b)).

(f) *Investments in specialist and registered trader joint accounts.* Present Exchange policy does not permit direct investments by members and member organizations in specialist and registered trader joint accounts unless the member or an individual in the member organization actively participates as a specialist or registered trader in the joint account.

Under the proposed amendments, participation by any one member or member organization in a specialist or registered trader joint account not exceeding 20%, with total participation by all outside investors not exceeding 40 percent, would be permitted. Investment by clearing firms would be limited to 10% because of the special relationship that exists between a specialist unit or registered trader firm and its clearing agent. The Exchange would have authority to limit such investments in certain circumstances. Such investments are subject to limitations because the Exchange believes that specialists and registered traders, in view of their responsibilities under Exchange rules, should have a substantial stake in joint accounts in which they participate. Non-members are prohibited from participating directly in the profits or losses of a specialist or registered trader joint account in order to avoid capital-raising efforts aimed at unsophisticated investors with respect to such joint accounts. Of course, the rule places no limitations on investment by members, member organizations or non-members in any member organization participating in a specialist or registered trader joint account. Such investment is governed by the provisions applicable to investment in member firms generally (Rule 365).

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed changes are as follows:

In March 1976 the Commission, pursuant to section 31(b) of the Securities Acts Amendments of 1975, notified the Amex that certain of its rules relating to membership raised questions under the Securities Exchange Act. The changes proposed above are designed to resolve those questions, to update Amex membership rules generally, and to liberalize certain restrictions on capital-raising efforts of member organizations.

The basis under the Act for adopting the proposed changes is generally to carry out the purposes of the Act; to remove unnecessary restrictions on the ability of persons to become members or to become associated with members of the Exchange; and to remove impediments to the mechanism of a free and open market, as exemplified by the following:

The amendments proposed in sections (a) and (b) of the Statement of Terms of Substance (the "Statement") which would amend various requirements for members and approved persons, are consistent with section 6(b)(2) of the Act in that they would remove certain restrictions on the ability of any registered broker or dealer or associated natural person to become associated with a member of the Exchange.

The amendments in section (c) of the Statement, which would eliminate the requirement that a member have as its principal purpose the conduct of a public securities business, are proposed to enable the Amex to comply with the Act and with the rules of Commission, consistent with Section 6(b)(1) of the Act. The requirement that a member have as its principal purpose the conduct of a securities business would be retained to assure that persons who hold memberships are active in the securities business and to enable the Exchange to limit its involvement in businesses not related to its jurisdiction. Moreover, the number of Exchange memberships is limited because the physical capacity of the Exchange is limited, and it is therefore important that memberships actually be used, and not held solely for investment or speculative purposes.

The amendments proposed in sections (d) (i), (ii), (iii), (iv) and (viii) of the Statement would give member organizations greater flexibility in raising capital, thus removing impediments to the mechanism of a free and open market, consistent with section 6(b)(5) of the Act.

The amendments proposed in sections (d)(v), (vi), and (vii) are consistent with Section 6(b)(2) of the Act in that they permit part-time employment by members and persons associated therewith and permit member status in more than one member organization, thus removing barriers for qualified persons to become members or to be associated therewith.

The amendments proposed in section (e) of the Statement, which would remove the power to disapprove members' business connections which may be detrimental to the Exchange or result in domination of a member organization by a non-member, would be consistent with section 6(b)(5) of the Act in that they eliminate Exchange rules not related to the purposes of the Act or the administration of the Exchange.

The amendments described in section (f) of the Statement would permit investment in a specialist or registered trader joint account by members and member organizations which are not active participants as specialists or registered traders in the joint account, up to certain limits. This would broaden the sources of financing for such accounts and thereby generally removing impediments to the mechanism of a free and open market, consistent with Section 6(b)(5) of the Act.

No comments were solicited or received from Exchange members or others.

The proposed rule changes are designed to eliminate certain burdens on competition. The Amex has concluded that any burdens on competition which may continue to exist in the amended provisions, notwithstanding the proposed rule changes, are permissible, under Section 6(b)(8), because they are in furtherance of proper regulatory objectives, specifically:

Inclusion of investment advisory activities within the definition of "securities or kindred business" (which has the effect of requiring investment advisors associated with a member to become approved persons) is justified by the Exchange's interest in maintaining regulatory jurisdiction over activities which are closely connected to the brokerage business and which can affect members' compliance with the Exchange's Constitution and rules.

Since limitations on foreign ownership of member organizations have been removed, the requirement that a member organization be organized under the laws of, and maintain its principal place of business in, the United States is a *de minimis* burden which has been retained to assist the Exchange in carrying out its self-regulatory activities.

Certain restrictions on members with supervisory responsibilities have been retained because, in the Exchange's view, it is necessary for such members to devote their entire time during business hours to the administration of their duties, in order to fulfill supervisory responsibilities imposed by the Act and by the Exchange.

On or before June 22, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned

self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 8, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 6, 1977.

EXHIBIT A

AMERICAN STOCK EXCHANGE, INC.

Annex A—Amendments to the Constitution[1]

1. Article I, Section 3(c) is amended to read as follows:

ALLIED MEMBER

(c) The term "allied member" means:

(1) a general partner in a regular OPTIONS PRINCIPAL or associate member firm *or an employee who controls such member firm* who is not a regular, OPTIONS PRINCIPAL or associate member of the Exchange; or

(2) an employee of a regular, OPTIONS PRINCIPAL or associate member corporation who is actively engaged in its business [and devotes the major portion of his time thereto] (unless he is in active government service or his health does not permit), who is not a regular, OPTIONS PRINCIPAL, or associate member of the Exchange, and who is either:

[(i) a director and a holder of record and beneficial owner of voting stock of such corporation, or]

[(ii)] *(i)* a principal executive officer [and a holder of record and beneficial owner of voting stock] of such corporation, or

[(iii)] *(ii)* a [holder of record and beneficial owner of 5% or more of the outstanding voting stock of] *person who controls* such corporation; [or]

[(3) an employee of an associate member corporation who is a director or principal executive officer of such associate member corporation and is not an associate member of the Exchange;] and who in each case has become an allied member as provided in Article IV.

2. Article I, Section 3(e) is amended to read as follows:

MEMBER CORPORATION

(e) The term 'member corporation' means a corporation, transacting business as a broker or dealer in securities, approved by the [Board of Governors] *Exchange* as a member corporation having (1) in the case of a regular member corporation, at least one regular member of the Exchange who is [a holder of voting stock therein] *associated with such corporation* and is actively engaged in [the] *its* business [of such corporation and devotes the major portion of his time thereto,] or (2) IN THE CASE OF AN OPTIONS PRINCIPAL MEMBER CORPORATION, AT LEAST ONE OPTIONS PRINCIPAL MEMBER OF THE EXCHANGE WHO IS *associated with such corporation* [A HOLDER OF VOTING STOCK THEREIN] AND IS ACTIVELY ENGAGED IN [THE] *its* BUSINESS [OF SUCH CORPORATION AND DEVOTES THE MAJOR PORTION OF HIS TIME THERETO], OR *(3)* in the case of an associate member corporation, at least one associate member of the Exchange who is a director or an executive officer thereof. A corporation shall cease to be a member corporation if the approval of the [Board of Governors] *Exchange* is withdrawn, or if it shall cease to transact business as a broker or dealer in securities, or if, in the case of an associate member corporation, it shall cease to have an associate member of the Exchange as a director or an executive officer thereof or if, in the case of a regular member corporation OR AN OPTIONS PRINCIPAL MEMBER CORPORATION, it shall cease to have a regular member OR AN OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, of the Exchange who is [a holder of voting stock therein] *associated with such corporation* and is actively engaged in its business [and devotes the major portion of his time thereto], unless the corporation has been approved by the [Board of Governors] *Exchange* as a temporary member corporation pursuant to Section 1(c)] *(d)* or Section 6(a) of Article IV.

3. Article I, Section 3(g) is amended to read as follows:

APPROVED PERSON

(g) The term "approved person" means a party who is neither an employee of a regular, OPTIONS PRINCIPAL or associate member organization nor a regular, OPTIONS PRINCIPAL, associate or allied member of the Exchange [, but who is either a director of a regular, OPTIONS PRINCIPAL or associate member corporation or who, directly or indirectly, controls, is controlled by, or is under common control with, a regular, OPTIONS PRINCIPAL or associate member organization, and] *who* has become an approved person as provided in [Article IV] *the rules of the Exchange and who is either:*

(i) a person who controls a member, *member firm or member corporation, or*

(ii) a person engaged in a securities or kindred business who is controlled by or under common control with a member, member firm or member corporation. The terms "control," "person" and "engaged in a securities or kindred business" as used herein shall be defined in the rules of the Exchange.

4. Article I, Section 3(h) is amended to read as follows:

[FREELY TRANSFERABLE] Publicly held Security; Voting Stock; Non-Voting Stock

(h) The term ["freely transferable] *public held* security" with respect to a member organization means (1) any stock which on its face may be transferred without it being necessary that the Exchange approve the transferee, and (2) any debt instrument which on its face may be transferred without it being necessary that the Exchange approve the transferee and which evidences a liability subordinated to general creditors as approved by the Exchange *any class of equity security issued by a member corporation which is owned beneficially by one hundred or more persons who are not members or employees of the member corporation.*

The term "voting stock" means stock in a corporation the holders of which are entitled to vote for the election of the directors of such corporation.

The term "non-voting stock" means stock of any class in a corporation other than voting stock.

5. Article II, Section 1(a) is amended to read as follows:

CLASSIFICATION

Sec. 1, (a) The Board of Governors shall be composed of twenty-one governors as follows:

(1) Ten regular, OPTIONS PRINCIPAL, associate or allied members of the Exchange having the following qualifications: (i) each shall be a principal executive officer of a regular, OPTIONS PRINCIPAL or associate member corporation, or a principal partner of a regular, OPTIONS PRINCIPAL or associate member firm, or a regular OR OPTIONS PRINCIPAL member of the Exchange who is not [a holder of voting stock in any member corporation or a partner in any member firm] *associated with any member organization;* (ii) at least four of the ten governors shall be principal executive officers of regular or associate member corporations or general partners of regular or associate member firms, which firms or corporations engage in a business involving substantial direct contact with public securities customers, and at least two of such four governors shall reside and have their principal place of business more than 100 miles from the City of New York; (iii) at least two of the ten governors shall be registered as specialists and shall spend a substantial part of their time on the Floor of the Exchange; and (iv) not more than three of the ten governors shall spend a substantial part of their time on the Floor of the Exchange;

(2) ten representatives of the public, none of whom are, or are affiliated with, a broker or dealer in securities; and

(3) the Chief Executive Officer of the Exchange, who shall be the Chairman of the Board.

7. Article II, Sections 4(b) and 4(c) are amended as follows:

EXAMINATION, INVESTIGATION, ETC.

(b) Any committee authorized by the Board or by the Constitution shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine the books, papers and records of any member or of his employee or of his member firm or of any partner or employee thereof, or

[1] Note: *Italics* indicate material to be added and [brackets] indicate material to be deleted. Language in CAPITAL LETTERS represents proposed changes contained in File No. SR-Amex-75-15 (relating to Options Principal Members) which has not yet been approved by the SEC.

the books, papers and records of the member corporation [in which any member is a stockholder, director or executive officer] *with which any member is associated,* or the books, papers and records of any officer, director or employee of such member corporation, or books, papers and records of any approved person or of any employee thereof, and any such committee shall have power to order the production of such books, papers and records for examination either by such committee or by any officers, employees or representatives of the Exchange designated by such committee. Any such committee shall also have power to require any member to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, or to require any member to cause any of his partners or employees or any of the directors, officers or employees of the member corporation [in which the member is a stockholder, director or executive officer] *with which the member is associated,* to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such member or his member firm or member corporation or of any employee of such member or his member firm or member corporation, or of any partner of his member firm or of any director or officer of his member corporation, or to require any approved person to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, or to require any approved person to cause any of his or its employees to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such approved person of any employee of such approved person.

ADDITIONAL COMMITTEE MEMBERS

(c) The chairman of any committee authorized by the Board, other than a committee to which the Board has delegated powers vested in it pursuant to the Constitution or applicable law, shall, with the approval of the Chairman, be empowered to appoint any member or partner of any member firm or [holder of voting stock in] *member associated with* any member corporation to serve on said committee for such time as the chairman of such committee, with the approval of the Chairman, may decide. Such appointees shall serve as additional members of the committee to which they may be appointed and shall be entitled to vote.

8. Article III, Section 4 is amended to read as follows:

Sec. 4. No person shall be eligible as a nominee for office if he, or a member who is a partner in his firm, or a member who is [a stockholder, director or executive officer in] *associated with* his member corporation, is under suspension from membership, and any such candidate for office who has been nominated prior to such suspension shall be thereby disqualified.

9. Article III, Section 5 is amended to read as follows:

Sec. 5. The Nominating Committee shall be composed of:

(a) Four regular, OPTIONS PRINCIPAL, associate or allied members of the Exchange, each of whom shall be a principal executive officer of a regular, OPTIONS PRINCIPAL or associate member corporation, or a principal partner of a regular, OPTIONS PRINCIPAL or associate member firm, or a regular OR OPTIONS PRINCIPAL member of the Exchange who is not [a holder of voting stock in any member corporation or a partner in any member firm] *associated with any member organization;* and

(b) Four representatives of the public, none of whom shall be, or are affiliated with a broker or dealer in securities.

10. Article IV, Section 1(a)(2) and 1(b)(2) are amended to read as follows:

REQUIREMENTS

(a)(2) Every application for regular membership must be at least [twenty one years of age and a citizen of the United States] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business.* An application for regular membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to regular membership unless his application is approved by the Exchange in accordance with the provisions of Section 1[(f)](*g*) of this Article IV.

* * * * *

(b)(2) AN APPLICANT FOR OPTIONS PRINCIPAL MEMBERSHIP MUST BE AT LEAST [TWENTY ONE YEARS OF AGE AND A CITIZEN OF THE UNITED STATES] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business.* AN APPLICATION FOR OPTIONS PRINCIPAL MEMBERSHIP SHALL BE IN WRITING AND SHALL BE IN SUCH FORM, AND CONTAIN SUCH INFORMATION, AS THE EXCHANGE MAY FROM TIME TO TIME PRESCRIBE. SUCH APPLICANT MUST AGREE THAT HIS PRIMARY OCCUPATION WILL BE THE TRANSACTION OF BUSINESS IN OPTIONS AS PRINCIPAL ON THE FLOOR OF THE EXCHANGE. NO PERSON MAY BE ADMITTED TO OPTIONS PRINCIPAL MEMBERSHIP UNLESS HIS APPLICATION IS APPROVED BY THE EXCHANGE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 1(g) OF THIS ARTICLE IV.

11. Article IV, Section 1(c) is amended to read as follows:

ALLIED MEMBERSHIP

(c) Allied membership—Any person, not a regular, OPTIONS PRINCIPAL or associate member of the Exchange, shall upon approval by the Exchange become an allied member of the Exchange by pledging himself to abide by the Constitution as it has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution, and by *becoming* either:

(i) [becoming] a general partner in a regular, OPTIONS PRINCIPAL or associate member firm *or an employee who controls such member firm;* or

(ii) [becoming] an employee of regular, OPTIONS PRINCIPAL or associate member corporation who actively engages in the business of such regular, OPTIONS PRINCIPAL or associate member corporation and [devotes the major portion of his time thereto, and] who is either: (1) [a director and a holder of record and beneficial owner of voting stock of such member corporation,] *a person who controls such corporation,* or (2) a principal executive officer [and a holder of record and beneficial owner of voting stock] of such member corporation. [or (3) a holder of record and beneficial owner of 5% or more of the outstanding voting stock of such member corporation, or

(iii) becoming an employee of an associate member corporation who actively engages in the business of such associate member corporation and devotes the major portion of his time thereto and who is either a director or principal executive officer of such associate member corporation.]

Such pledge to abide by the Constitution and rules shall be made by written instrument filed with the Exchange in which the signer pledges himself as aforesaid.

* * * * *

[When an allied member of a member firm ceases to be a general partner in a regular, OPTIONS PRINCIPAL or associate member firm, his allied membership shall terminate unless he forthwith becomes a general partner in another regular, OPTIONS PRINCIPAL or associate member firm continuing the business of the first firm or forthwith meets the conditions set forth in subdivisions (ii) or (iii) of this subsection (c) in a member corporation continuing the business of the first firm. When an allied member of a member corporation ceases to meet the requisite conditions for such allied membership set forth in subdivisions (ii) or (iii) of this subsection (c) his allied membership shall terminate unless he forthwith meets the conditions set forth in subdivisions (ii) or (iii) in another member corporation continuing the business of the first corporation or forthwith becomes a general partner in a regular, OPTIONS PRINCIPAL or associate member firm continuing the business of the first corporation.]

When an allied member ceases or fails to meet the requirements of an allied member in his member organization, as

provided above, and does not forthwith qualify as an allied member in a member organization continuing the business of the first member organization, his allied membership shall terminate.

* * * * *

12. Article IV, Section 1(d) is amended to read as follows:

ASSOCIATE MEMBERSHIP

(d) Associate membership—The number of associate members shall be such as may be determined by the Board of Governors from time to time. Any person not less than [twenty one years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business* who is actively engaged in the business of buying and selling securities as broker or dealer, either as a partner of a firm or as a director or executive officer of a corporation may make application for associate membership. * * *

* * * * *

MAY NOMINATE PARTNER [OR VOTING STOCKHOLDER] FOR REGULAR MEMBERSHIP

An associate member, who is a general partner in a member firm or a director or executive officer of a member corporation, may nominate for regular membership a general partner in such firm or a [holder of voting stock in] *person associated with* such corporation who is actively engaged in the business of such corporation [and devotes the major portion of his time thereto].

* * * * *

13. Article IV, Section 2(b) is amended to read as follows:

Approval of general partners [and holders of voting stock] *of member firms and members associated with member corporations.*

(b) Without the prior approval of the Exchange, no member shall have as a general partner in a member firm any person who is not a regular, OPTIONS PRINCIPAL, associate or allied member of the Exchange, nor shall any member be [the holder of voting stock or a director or executive officer in] *associated with* a member corporation unless all [holders of such voting stock and all directors and executive officers] *members associated with and approved persons* of such member corporation who are required to be approved by the Exchange are so approved.

14. Article IV, Section 2(c), 2(d), 2(e)(1), (4) and (7), and 2(h) are amended to read as follows:

MEMBER LIMITED TO ONE MEMBER ORGANIZATION

(c) Except as may be permitted by a Rule adopted by the Board of Governors or otherwise specifically permitted by the Board of Governors, no party shall at the same time be a member [or approved person or a special or limited partner] in more than one member organization.

PURPOSE OF MEMBER FIRM, MEMBER CORPORATION AND MEMBER

(d) Every member firm, member corporation and member who is not [a general partner in a member firm or a director, executive officer or holder of voting stock in] *associated with* a member [corporation] *organization* shall have as [its or his] *the* principal purpose *of its or his membership* the [conduct of a public securities business, as defined by rule of the Board of Governors] *transaction of business as a broker or dealer in securities.* [With respect to members, member firms and member corporations on January 16, 1973 the Board of Governors shall prescribe by rule such period of time and such terms and conditions, as it deems appropriate, pursuant to which such members, member firms and member corporations shall be required to comply with the provisions of this subsection.]

CONDITIONS OF APPROVAL OF MEMBER CORPORATIONS

(e) The Exchange shall not approve a corporation as a member corporation unless:

(1) in the case of regular AND OPTIONS PRINCIPAL member corporations, [every director of the corporation is a holder of record and owns beneficially voting stock of the corporation and] at least one regular OR OPTIONS PRINCIPAL member of the Exchange is [a holder of record and owns beneficially voting stock of] *associated with* the corporation and is actively engaged in its business [and devotes the major portion of his time thereto]; and

* * * * *

(4) every member of the Exchange who is an employee of the corporation actively engages in its business [and devotes the major portion of his time thereto] (unless he is in active government service or health does not permit); and

* * * * *

(7) the [primary activity] *prinicipal purpose* of the corporation is the transaction of business as a broker or dealer in securities; and

* * * * *

WITHDRAWAL OF APPROVAL OF CERTAIN STOCKHOLDERS

(h) [Each share of a member corporation which is not a freely transferable security and each properly subordinated debt instrument of such member corporation which is not a freely transferable security shall be owned by a party approved by the Exchange. In addition,] Whenever a party who is required to be approved by the Exchange as a member or approved person fails or ceases to be so approved, each member corporation [having outstanding any shares of stock which are freely transferable securities] shall promptly redeem or convert to a fixed income security such of its outstanding [freely transferable securities] *voting stock* as may be necessary to reduce such party's ownership of voting stock in the member corporation below that level which enables such party to exercise controlling influence over the management or policies of such member corporation.

15. Section 2(i) is deleted as follows:

[PRIMARY ACTIVITY

(i) Except as otherwise provided in any rule adopted by the Board of Governors, no member corporation may have outstanding any freely transferable security if its primary activity is that of a registered trader or floor broker.]

16. Sections 2(j) is redesignated as Section 2(i) and is amended to read as follows:

NON-VOTING COMMON STOCK

[(j)] (*i*) Without the prior approval of the Exchange [, (a)] no member corporation shall issue any [freely transferable] *publicly held* security in the form of non-voting common stock [, (b) after it has issued any freely transferable security, it shall not issue any more non-voting common stock, and (c) after three years from June 1, 1970 every member corporation having outstanding any freely transferable security shall not have outstanding any non-voting common stock, and all non-voting common stock previously outstanding shall, before the end of such three year period, have been retired by redemption or converted into voting common stock.]

17. Section 2(k) is deleted in its entirety as follows:

[AFFIDAVIT AS TO 5% STOCKHOLDERS

(k) The chief executive officer of each member organization which has issued any freely transferable security shall submit to the Exchange at such times as the Exchange may require an affidavit listing to the best of his knowledge and belief, the name of each non-member who controls, is controlled by or is under common control with, the member organization.]

18. Sections 2(l) and (m) are redesignated as Sections (j) and (k), and Section (k) as so redesignated is amended to read as follows:

LOCATION

[m] (k) Every member firm shall be a partnership and every member corporation shall be a corporation created or organized under the laws of, and shall maintain its principal place of business in, the United States [or Canada,] or any State [or Province] thereof. *The provisions of this paragraph shall not operate to disqualify an organization admitted as a member organization prior to , 1977.* [Insert effective date of amendment.]

19. Section 2(n) is deleted in its entirety as follows:

[(n) No member firm or member corporation shall have as a parent any

party other than a citizen of the United States or Canada or a corporation or partnership created or organized under the laws of the United States or Canada, or any State or Province thereof.]

20. Section 2(o) through (r) are redesignated as Sections 2(l), 2(m), 2(n), and 2(o) respectively, and Section 2(o) as so redesignated is amended to read as follows:

WRITTEN NOTIFICATION OF PROPOSED ACTS

[(r)] *(o)* A member shall promptly, notify the Exchange in writing if he intends to enter into or to form a partnership or to admit another person to a member firm, or if he intends to organize a member corporation [or to become a stockholder in] *or to qualify a corporation as* a member corporation, or if he intends to become [a director or officer or stockholder in] *associated with* an associate member corporation, or if [a] *his* regular OR OPTIONS PRINCIPAL member corporation [in which he is a stockholder] intends to permit another person to become a member or an approved person of such member corporation. Upon receipt of such notification, the Secretary shall post on the Bulletin Board in the Exchange for such period as the Board of Governors may determine the names of all proposed partners of such member or the names of all proposed members and all proposed approved persons of such regular OR OPTIONS PRINCIPAL member corporation.

21. Section 2(s) is redesignated as Section 2(p) and is amended to read as follows:

ASSIGNMENT OF MEMBERSHIP OR INTEREST IN MEMBER FIRM OR MEMBER CORPORATION

[(s)] (p) No member shall assign or in any way encumber his membership in the Exchange without the prior approval of the Exchange. [No general or limited partner in a member firm shall assign or in any way encumber his interest in such member firm and no holder of shares of stock of a member corporation (other than any share which is a freely transferable security) shall assign or in any way encumber such shares without the prior written approval of the Exchange.]

22. Sections 2(t) and 2 (u) are redesignated as Section 2(q) and 2(r) and are amended to read as follows:

SUBMISSION OF INFORMATION AS TO PROPOSED CHANGES

[t] *(q)* If a member intends to enter into a partnership agreement or to alter the terms of an existing partnership agreement, or if a member corporation [of which a member is a stockholder, director or executive officer] *with which a member is associated* intends to amend its certificate of incorporation or its by-laws, such member shall submit such papers and information relating to such agreement or change as the Exchange may require.

RETIREMENT FROM MEMBER FIRM OR MEMBER CORPORATION

[u] *(r)* A member who is a partner in a member firm or [a stockholder, director or executive officer of] *associated with* a member corporation shall give, or cause to be given, to the Exchange prompt notice of the retirement of any partner from such member firm or of the retirement of any member from such member corporation or of the retirement of such member as a director or executive officer of such member corporation or of the dissolution of such member firm or member corporation.

23. Section 2(v) is deleted in its entirety as follows:

[FIXED INTEREST

(v) Every partner in a member firm and every stockholder in a member corporation must have a fixed or determinable interest in its entire business.]

24. Sections 2(w) through 2(z) are redesignated as Sections 2(s), 2(t), 2(u) and 2(v) respectively.

25. Article IV, Section 3(a) is amended to read as follows:

SALARIED MARKET EMPLOYEES

Sec. 3(a) Upon request of a regular member elected prior to June 1, 1923, the Exchange may permit such regular member to designate a representative, to be known as his authorized salaried market employee, who shall be limited to the execution of orders on the Floor of the Exchange for the account of such regular member or of the firm in which such regular member may be a partner or of the member corporation [in which such regular member is a holder of voting stock] *with which such member is associated*. Such regular member shall, however, relinquish his Floor privileges during the period when such employee is acting as his representative. The Exchange may revoke such privilege at any time. A partner of a regular member or a stockholder of a member corporation [in which a regular member is a holder of voting stock] *with which such member is associated* shall not, however, be approved as the salaried market employee of such regular member or of his member corporation.

26. Article IV, Sections 3(b), 3(c), 3(d), 3(e) and 3(g) are amended to read as follows:

GOVERNOR REPRESENTATIVES

(b) The Exchange may authorize an allied member partner of any regular member governor or an employee of any regular member governor or of a member corporation [in which he is a holder of voting stock,] *with which he is associated* to exercise the privilege of transacting on the Floor of the Exchange the business of such governor or of the [firm of which such governor is a partner or of the member corporation in which such governor is a holder of voting stock,] *member organization with which such governor is associated* during such time as such governor is engaged in Exchange business.

TEMPORARY REPRESENTATIVES

(c) A regular member may, with the approval of the Exchange, designate another regular member as his representative to execute his orders or the orders of his firm or the orders of a member corporation [in which he is a holder of voting stock,] *with which he is associated* during his absence from the Floor on Exchange business.

REPRESENTATION WHILE ENGAGED IN MILITARY OR NAVAL SERVICE OR IN PUBLIC PROGRAM FOR DEFENSE OF U.S.

(d) The Exchange may authorize an allied member or an employee of a regular member or an employee of a regular member corporation [in which such regular member is a holder of voting stock,] *with which such regular member is associated* to exercise the privilege of transacting on the Floor of the Exchange the business of such regular member or of the [firm of which such regular member is a partner or of the member corporation in which such regular member is a holder of voting stock,] *member organization with which such regular member is associated* during such time as such regular member is actively engaged in any military, naval or other public service incident to the defense of the United State or of any nation which is a belligerent against one or more of the enemies of the United States.

REPRESENTATION WHILE ENGAGED IN MILITARY OR NAVAL TRAINING SERVICE

(e) The Exchange may authorize an allied member or an employee of a regular member or an employee of a regular member corporation [in which such regular member is a holder of voting stock,] *with which such regular member is associated* to exercise the privilege of transacting on the Floor of the Exchange the business of such regular member or of the [firm of which such regular member is a partner or of the member corporation in which such regular members is a holder of voting stock,] *member organization with which such regular member is associated* during such time, not exceeding thirty days in any calendar year, as such regular member is participating in camp or cruise duty or other military or naval training service as an officer or in the enlisted personnel of the Army, Navy, Coast Guard or Air Force of the United States, or the Guard, militia or other military establishment of any State.

* * * * *

CONTRACTS BY REPRESENTATIVES

(g) Contracts made on the Floor of the Exchange by any such representative or salaried market employee authorized pursuant to this Section shall be considered contracts made by the regular member represented by such representative or employee or by [such regular member's firm or by the member corporation in which such regular member is a holder of voting stock] *the member organization with which such regular member is associated.*

27. Article IV, Section 4(c) is amended to read as follows:

CONTRACTS PENDING TRANSFER

(c) A regular OR OPTIONS PRINCIPAL member proposing to transfer his

membership to an applicant for membership shall not, pending action by the Exchange on the proposed transfer, after the third day of the posting of notice of the proposed transfer, make any contract on the Exchange, unless the contract is expressly made on behalf of another member of the Exchange or on behalf of a member firm which shall continue to be a member firm notwithstanding the completion of such transfer or on behalf of a member corporation which shall continue to be a member corporation notwithstanding the completion of such transfer. No contract made after the third day by a member proposing to transfer his membership or by [his firm or by a member corporation in which he is a holder of voting stock] *the member organization with which he is associated* shall, if the transfer is approved by the Exchange, be the basis of a claim against the proceeds of the transfer thereof under this Section, but may, if the transfer is to another [partner in the member firm in which the transferring member is a partner or if the transfer is to a stockholder in a member corporation in which the transferring member is a stockholder] *person associated with the same member organization,* constitute the basis of a claim under this Section against the proceeds of the subsequent transfer of such membership by the [partner or stockholder] *person* to whom it is transferred.

* * * * *

28. Article IV, Section 4(d) is amended to read as follows:

DISTRIBUTION OF PROCEEDS

(d) Upon any transfer of A regular OR OPTIONS PRINCIPAL membership, whether made by a REGULAR OR OPTIONS PRINCIPAL member or his legal representatives, voluntarily or by the Board in pursuance of the provisions of the Constitution, the proceeds thereof shall be applied to the following purposes and in the following order of priority, viz.:

EXCHANGE CHARGES

FIRST.—The payment of such dues, fines, assessments, contributions to the Gratuity Fund (IN THE CASE OF A REGULAR MEMBER) and charges as the Exchange shall determine are or may become due to the Exchange by the member whose membership is transferred or by the [member firm in which such member is a partner or by a member corporation voting stock of which is held by such member] *member organization with which such member is associated.*

* * * * *

SURPLUS AFTER CLAIMS

FOURTH.—The surplus, if any, of the proceeds of the transfer of a regular OR OPTIONS PRINCIPAL membership shall be paid to the person whose membership is transferred, or to his legal representatives, upon the execution by him or them of a release or releases satisfactory to the Exchange, unless the Exchange shall determine either (a) that the protection of the creditors of the member [firm or member corporation or former member firm or former member corporation in which such member is or was last a general partner or holder of voting stock] *oganization with which such person is or was associated* requires the use of said surplus, or any part thereof, or (b) that said member has expressly agreed that said surplus shall be paid to such firm or corporation, in either of which events said surplus shall be paid over to such firm or corporation upon the execution by said member or such firm or corporation of a release or releases satisfactory to the Exchange.

29. Article IV, Section 4(f) is amended to read as follows:

INTRA-PARTNERSHIP OR INTRA-CORPORATION CLAIMS

(f) Claims growing out of business transactions between the member of the Exchange whose membership is being disposed of (herein called the "retiring member") and [one of his partners or one of the stockholders of his member corporation] *another person associated with the same member organization,* or out of such transactions between the retiring member and the [member firm or the member corporation in which he was a partner or a holder of voting stock] *member organization with which he was associated* at the time of such transactions shall not share in the proceeds of the membership of the returned member until all other claims allowed by the Exchange have been paid in full.

30. Article IV, Section 6(a) is amended to read as follows:

Death of sole regular OR OPTIONS PRINCIPAL member general partner in regular OR OPTIONS PRINCIPAL member firm, or sole regular OR OPTIONS PRINCIPAL member [director and holder of voting stock in] *associated with* regular OR OPTIONS PRINCIPAL member corporation

Sec. 6. (a) A firm which continues the business of a regular OR OPTIONS PRINCIPAL member firm following the death of the sole regular member OR SOLE OPTIONS PRINCIPAL MEMBER, AS THE CASE BAY BE, who was a general partner in such member firm or a corporation which continues the business of a regular OR OPTIONS PRINCIPAL member corporation following the death of the sole regular member OR SOLE OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, who was [a holder of voting stock in] *associated with* such member corporation and actively engaged in the business of such corporation [and devoted the major portion of his time thereto] may be granted the status of a temporary member firm or a temporary member corporation for such period of time as the Exchange may determine, upon application to and approval by the Exchange.

31. Article IV, Section 6(c) is amended to read as follows:

APPLICATION REQUIREMENTS

(c) The Exchange may not grant an application of a corporation for the status of temporary member corporation unless:

[Continuance in business and of holdings of voting stock]

(1) the member corporation continues in business; and

Use and proceeds of membership

(2) the deceased member shall have agreed in a writing filed with the Exchange that such member corporation, if permitted by the Exchange to have the status of a temporary member corporation, shall be entitled to the use of his membership while such corporation is a temporary member corporation; and that the proceeds of his membership shall be an asset of the corporation, in so far as may be necessary for the protection of the creditors of the corporation and subject to the Constitution and rules of the Exchange, while such corporation is a temporary member corporation; and

Agreement to be filed; Subject to rules

(3) the applicant corporation files with the Exchange an agreement, in such form as the Exchange may prescribe, providing that such corporation and each member therein, while such corporation is a temporary member corporation, will be subject to and comply with the Constitution and rules of the Exchange to the same extent as if a regular OR OPTIONS PRINCIPAL member of the Exchange were [a holder of voting stock in] *associated with* such corporation and actively engaged in the business of such corporation [and devoted the major portion of his time thereto]; and

Capital

(4) the capital of the applicant corporation is, in the opinion of the Exchange, adequate.

32. Article IV, Sections 6(e), 6(f) and 6(g) are amended to read as follows:

STATUS EFFECTIVE

(e) The status of temporary member firm or temporary member corporation shall be deemed effective in respect of any [firm or corporation] *member organization* at the time of the death of the regular OR OPTIONS PRINCIPAL member [partner or voting stockholder] *associated with such member organization* in any case where an application for such status has been granted, and pending the consideration of an application, a firm or corporation which satisfies such requirements as the Exchange may prescribe shall be entitled to the rights and shall be subject to the obligations of a temporary member firm, or temporary member corporation, as the case may be.

TERMINATION OF STATUS

(f) The status of temporary member firm or temporary member corporation may be terminated with respect to any such firm or corporation by the Exchange at any time, in the sole discretion of the Exchange, and, in any event, shall terminate when a regular member

OR AN OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, is admitted to general partnership in such temporary member firm or when a regular member OR AN OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, becomes [a holder of voting stock in] *associated with* such temporary member corporation and actively engaged in the business of such corporation [and devotes the major portion of his time thereto].

PROCEEDS OF MEMBERSHIP SUBJECT TO CLAIMS

(g) The proceeds of the sale of a regular OR OPTIONS PRINCIPAL membership, the use of which has been contributed to a temporary member firm or to a temporary member corporation, shall be subject to claims of the Exchange, the American Stock Exchange Clearing Corporation, the Options Clearing Corporation, regular AND OPTIONS PRINCIPAL members and regular AND OPTIONS PRINCIPAL member firms and regular AND OPTIONS PRINCIPAL member corporations against such temporary member firm or temporary member corporation to the same extent as if the deceased member were living and a general partner in such temporary member firm or [a holder of voting stock in] *associated with* such temporary member corporation who was actively engaged in the business of such corporation [and devoted the major portion of his time thereto] at the time of the transactions giving rise to such claims.

33. Article V, Section 3(a) is amended to read as follows:

AUTOMATIC SUSPENSION

Sec. 3(a) A member who fails to perform his contracts or is insolvent or is in such financial or operating condition that he cannot be permitted to continue in business with safety to investors, his creditors, other members or the Exchange, or a member who is [a partner in a member firm or a stockholder, director or executive officer of a] *associated with a* member [corporation] *organization* which fails to perform its contracts or is insolvent or is in such financial or operating condition that it cannot be permitted to continue in business with safety to investors, its creditors, other members or the Exchange, shall immediately inform the Chairman, in writing, of such fact, and prompt announcement thereof shall be made by the Chairman to the Exchange, and such member or member organization shall upon such notice to the Exchange, become automatically suspended until and unless such member or member organization has been reinstated as provided in Section 5 of Article IV.

34. Article V, Section 3(d) is amended to read as follows:

SALE OF REGULAR OR OPTIONS PRINCIPAL MEMBERSHIP AND REVOCATION OF ASSOCIATE MEMBERSHIP

(d) If the Board of Governors determines, after not less than ten days' notice to a regular OR OPTIONS PRINCIPAL member who has been suspended or whose member organization has been suspended under the foregoing provisions of this Section, that the protection of the persons, firms and corporations entitled to make claim against the proceeds of the transfer of his regular OR OPTIONS PRINCIPAL membership, AS THE CASE MAY BE, under Section 4 of Article IV or the protection of the creditors of the member organization [in] *with* which such regular OR OPTIONS PRINCIPAL member is or was last [a general partner or holder of voting stock] *associated* requires the transfer of the membership of such member, such membership may be disposed of by the Board of Governors.

* * * * *

35. Article V, Section 4(s) is amended to read as follows:

SUSPENSION OR EXPULSION OF MEMBERS OF SUSPENDED OR EXPELLED MEMBER ORGANIZATION

(s) Unless the Board or a committee authorized by the Board otherwise determines, when a member organization is suspended or expelled in a proceeding under this Article, each regular, OPTIONS PRINCIPAL, associate and allied member who is [a general partner or holder of voting stock in or a director or executive officer of] *associated with* such member organization shall thereupon be suspended or expelled, as the case may be; and any such suspension shall continue during the suspension of such member organization or during such lesser period as the Board or such committee may determine.

36. Article V, Section 4(t) is amended to read as follows:

CONTINUED FAILURE TO PAY FINES, DUES, ETC.

(t) If fines, dues, assessments, charges or contributions to the Gratuity Fund (IN THE CASE OF A REGULAR MEMBER) of any suspended regular, OPTIONS PRINCIPAL or associate member are not paid at the end of ninety days after they become payable, the membership of such suspended regular OR OPTIONS PRINCIPAL member shall be disposed of by the Board under the provisions of Section 7 of Article IV, and in the case of an associate member, the Board shall revoke his membership.

Whenever the Treasurer shall report to the Chairman that a member organization has neglected to pay a fine for forty-five days after the same is payable, the membership of each regular, OPTIONS PRINCIPAL, associate and allied member who is [a general partner, holder of voting stock or director or executive officer in] *associated with* such member organization shall be suspended, unless the Board of Governors shall have granted an extension of time to pay such fine. Should payment not be made within one year after payment is due, the membership of any such regular OR OPTIONS PRINCIPAL member may be disposed of, and the membership of any such associate member may be revoked, by the Board on at least ten days' written notice mailed to such regular OR OPTIONS PRINCIPAL or associate member at his address registered with the Exchange.

37. Article V, Section 5(b) is amended to read as follows:

Procedure

(b) In any proceeding under this Section 5, the method of procedure required by Section 1(b) of this Article V shall not apply, but the accused shall be given not less than ten days' notice in writing that an Exchange Disciplinary Panel will conduct a hearing to determine whether or not to suspend or expel the accused, as the case may be, as provided in this Section 5. At the hearing before the Disciplinary Panel, the accused member, or any [general partner, holder of voting stock, director or executive officer of] *person associated with* the accused member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, shall be afforded an opportunity to explain why it would be inappropriate for the Disciplinary Panel to accept the finding of such other exchange, association or agency or to suspend or expel the accused, notwithstanding the suspension, expulsion or bar by such other exchange, association or agency. In the event that the Disciplinary Panel determines not to accept the finding of guilt by such other exchange, association or agency, it may order a proceeding under any other Section of this Article V. In the event that the accused fails or refuses to appear before the Disciplinary Panel, the Disciplinary Panel may nevertheless determine the matter and suspend or expel the accused as provided in this Section 5. If the Disciplinary Panel determines to accept the finding of guilt by such other exchange, association or agency and to suspend or expel the accused, such determination shall be supported by a written statement setting forth the specific grounds on which such action is based. Such written statement shall be served upon the accused in the manner provided by Section 1(b) of this Article V, and a copy thereof shall be sent to each member of the Board of Governors. Any action by an Exchange Disciplinary Panel pursuant to this Section 5 shall be subject to review in accordance with the procedures specified in paragraph (5) of Section 1(b) of this Article V. In the event no request for review is filed within twenty days after the accused is notified of the determination of the Disciplinary Panel, such determination shall become final and conclusive.

38. Article V, Section 7 is deleted in its entirety as follows:

[DETRIMENTAL TO EXCHANGE INTEREST

SEC. 7 (a) Whenever it shall appear to the Board that a member is a partner in a partnership, a stockholder, officer or director in or an employee of a corporation, or has an office or headquarters, or is individually or through any part-

ner of his member firm or through any stockholder in his member corporation interested in a partnership, corporation or business, or has any business connection whatever, whereby the interest or good repute of the Exchange may suffer, the Board may require the member to dissolve any such partnership or to sever all connection therewith (whether or not such partnership is a member firm) or require the member to sever all connection with the corporation (whether or not it is a member corporation) and cease to be a stockholder, officer or director therein or employee thereof or may require the member to discontinue such business, office or headquarters or business connection, as the case may be.

DOMINATION BY NON-MEMBER CORPORATION OR ASSOCIATION

(b) Whenever it shall appear to the Board that a member, individually or through his member firm or member corporation or through any partner of his member firm or through any officer, director or employee of his member corporation, has such a business connection with a non-member corporation or association that said non-member corporation or association dominates the business of the member or member firm or member corporation, or controls the policy of such business, the Board may require the member to discontinue such business connection.]

39. Article VII, Section 1(a) is amended to read as follows:

REGULAR MEMBERS

SEC. 1 (a) Regular Members—The initiation fee for regular membership shall be based upon the latest price at which a regular membership shall have been sold and transferred to an applicant for membership, otherwise than for a nominal consideration or through a private sale or pursuant to Article IV, Section 1(a)(4), prior to the date when such initiation fee is due. Such initiation fee shall be $1,000, if such sale price shall have been $5,000 or less, and such fee shall be increased by $500 for each additional $5,000; but in no case shall such initiation fee exceed $2,500.

Notwithstanding other provisions of the Constitution, an applicant for regular membership who is an associate member on the effective date of this amendment and continues to be such down to the date of the filing of his application for regular membership, or is a general partner or a director [holding voting stock in] *of* a firm or corporation which was an associate member firm or corporation on the effective date of this amendment and continues to be an associate member firm or corporation down to the date of the filing by such applicant of his application for regular membership, shall not be required to pay any initiation fee.

The above initiation fee shall be paid prior to the approval by the Exchange of an applicant for regular membership.

* * * * *

40. Article VII, Section 1(b) is amended to change the cross reference appearing therein from Article IV, Section 1(c) to Article IV, Section 1(d).

41. Article VII, Section 1(c) is amended to read as follows:

(c) OPTIONS PRINCIPAL MEMBERS—A PERSON ACQUIRING AN OPTIONS PRINCIPAL MEMBERSHIP DIRECTLY FROM THE EXCHANGE PURSUANT TO A PLAN OFFERING SUCH MEMBERSHIPS TO QUALIFIED APPLICANTS, AND PAYING TO THE EXCHANGE THE FEE PRESCRIBED IN SUCH PLAN FOR AN OPTIONS PRINCIPAL MEMBERSHIP, SHALL NOT BE REQUIRED TO PAY AN INITIATION FEE. IN ALL OTHER CASES (EXCEPT AS HEREINAFTER PROVIDED), THE INITIATION FEE FOR OPTIONS PRINCIPAL MEMBERSHIP SHALL BE BASED UPON THE LATEST PRICE AT WHICH AN OPTIONS PRINCIPAL MEMBERSHIP SHALL HAVE BEEN SOLD AND TRANSFERRED TO AN APPLICANT FOR MEMBERSHIP, OTHERWISE THAN FOR A NOMINAL CONSIDERATION OR THROUGH A PRIVATE SALE, PRIOR TO THE DATE WHEN SUCH INITIATION FEE IS DUE. SUCH INITIATION FEE SHALL BE $1,000, IF SUCH SALE PRICE SHALL HAVE BEEN $5,000 OR LESS, AND SUCH FEE SHALL BE INCREASED BY $500 FOR EACH ADDITIONAL $5,000, OR FRACTION THEREOF, BY WHICH SUCH SALE PRICE SHALL HAVE EXCEEDED $5,000; BUT IN NO CASE SHALL SUCH INITIATION FEE EXCEED $2,500.

NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, IF AN OPTIONS PRINCIPAL MEMBER WHO IS A PARTNER IN A MEMBER FIRM TRANSFERS HIS MEMBERSHIP TO ANOTHER PARTNER IN SUCH MEMBER FIRM AND THE PARTNERS CONTINUE THE BUSINESS OF SUCH FIRM WITHOUT INTERRUPTION OR CHANGE, OTHER THAN SUCH CHANGES AS MAY BE OCCASIONED BY THE DEATH OR RETIREMENT OF THE OPTIONS PRINCIPAL MEMBER WHOSE MEMBERSHIP IS BEING TRANSFERRED, OR IF AN OPTIONS PRINCIPAL MEMBER WHO IS [A VOTING STOCKHOLDER IN] *associated with* A MEMBER CORPORATION TRANSFERS HIS MEMBERSHIP TO ANOTHER [VOTING STOCKHOLDER IN] *person associated with* SUCH MEMBER CORPORATION AND SUCH CORPORATION CONTINUES TO ENGAGE IN THE BUSINESS OF BUYING AND SELLING SECURITIES AS BROKERS OR DEALERS WITHOUT INTERRUPTION OR CHANGE, OTHER THAN SUCH CHANGES AS MAY BE OCCASIONED BY THE DEATH OR RETIREMENT OF THE OPTIONS PRINCIPAL MEMBER WHOSE MEMBERSHIP IS BEING TRANSFERRED, THE INITIATION FEE PAYABLE IN CONNECTION WITH SUCH TRANSFER SHALL BE $500.

THE INITIATION FEE REQUIRED BY THIS SUBSECTION SHALL BE PAID PRIOR TO THE APPROVAL BY THE EXCHANGE OF AN APPLICANT FOR OPTIONS PRINCIPAL MEMBERSHIP.

ANNEX B

AMERICAN STOCK EXCHANGE, INC.

Amendments to "Admission of Members—Regular Members—Associate Members—Allied Members"[2]

1. The section entitled "Admissions Committee" is deleted as follows:

[The Admissions Committee of the Exchange, composed of two Floor Governors, two Office Governors and one Out-of-town or Public Governor, considers membership applications and other admissions matters.]

[Any two members of the Committee may interview membership candidates in most circumstances. The full Committee, or all members available, interviews any candidate whose application appears to present an unusual question. An out-of-town applicant may be interviewed in the Committee's behalf by a Governor or other prominent member or allied member in the area.]

[The Committee presents its recommendations on admissions matters to the Board of Governors. Final decisions are made by the Board.]

2. Paragraphs two, four and seven of "Requirements—Regular Membership" are amended to read as follows:

An applicant for regular membership must be at least [21 and, depending on circumstances, should not be over 60 years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business.* He must be [a citizen of the United States and] of good character and reputation.

* * * * *

[Sponsorship of an applicant is required from two members or members' partners who have known the applicant for a substantial period of time or from other sponsors acceptable to the Exchange.] Letters of reference from five [other] responsible persons must be furnished.

* * * * *

An applicant who is in a partnership or corporation in the securities business must take the required steps to qualify his organization as a member organization. [Without Exchange approval, he may not have an interest in more than one organization in the securities business or be associated with any outside business enterprise.]

3. Paragraphs (5), (6) and (7) of "Admissions Procedure—Regular Membership" are amended to read as follows:

(5) The Exchange staff conducts a thorough investigation of the applicant. [with the goal of spotting any unusual

[2] NOTE.—*Italics* represent material to be added. [Brackets] represent material to be deleted.

questions for consideration by the Admissions Committee.]

(6) The applicant [and his sponsors where necessary are then] *may be* requested to *meet with representatives of the Membership Services Division to discuss any* [appear for an interview. Where an unusual] questions [has] *that have* arisen *during the Exchange's investigation.* [the applicant is advised of the matter and interviewed on that point by the full Admissions Committee. Otherwise the interview is by two members of the Committee or by its out-of-town representative. Sponsors of out-of-town applicants may ordinarily submit letters instead of appearing for interviews.]

(7) [The Admissions Committee then either recommends election of the candidate or, if it decides not to recommend approval, presents its findings and reasons to the full Board of Governors.] *The Membership Services Division then either approves the applicant or, if it decides not to approve, it notifies the applicant of its reasons for disapproval and that the applicant is entitled to a hearing under Article IV, Section 1(g) of the Constitution.*

4. Paragraphs one, two and three of "Requirements—Associate Membership" are amended to read as follows:

An applicant must be at least [21 years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business* and actively engaged in the business of buying and selling securities as broker or dealer, either as a partner of a firm or as a [director or executive officer of] *person associated with* a corporation.

A detailed membership application must be filed and the applicant must [have the same sponsorship required of a regular member candidate] *submit letters of recommendation from five responsible persons.* He must have adequate experience in the securities business and pass the office partner examination, unless he has satisfied the examination requirements of the New York Stock Exchange.

[An associate member is subject to the same restrictions as a regular member as to other business affiliations.] The required steps must be taken by the applicant to qualify his firm or corporation as an associate member organization.

5. Paragraphs one and two of "Admissions Procedure—Associate Membership" are amended to read as follows:

There is a 5-day posting period for associate membership applicants and the Exchange staff conducts a thorough investigation of the applicant. The candidate *may be requested to meet with the representatives of the Membership Services Division to discuss any questions that have arisen during the Exchange's investigation.* [is not ordinarily interviewed but may be in the discretion of the Admissions Committee. Letters of sponsorship are normally accepted from sponsors in lieu of an interview.]

[After reviewing the facts, the Admissions Committee either recommends the applicant's election or presents its reasons for not doing so to the Board of Governors, which makes the final decision.] *The Membership Services Division then either approves the applicant or, if it decides not to approve, it notifies the applicant of its reasons for disapproval and that the applicant is entitled to a hearing under Article IV, Section 1(g) of the Constitution.*

6. Paragraphs one and two of "Allied Membership" are amended to read as follows:

An allied membership application must be filed [and sponsorship by two members or members' partners provided] *with the Exchange.* The applicant must have adequate experience in the securities business and pass the office partner examination, unless he has satisfied the examination requirements of the New York Stock Exchange. The Exchange must be notified in writing of the member organizations' intention to admit [the applicant as a partner or stockholder] *any person required to become an allied member under the provisions of Article IV, Section 1(c) of the Constitution.*

[Allied membership applications are considered by the Admissions Committee following a thorough investigation of the applicant by the Exchange staff. Interviews are not normally required. The Committee makes its recommendations to the Board of Governors regarding election of candidates.]

Following a thorough investigation by the Exchange staff, an applicant for allied membership may be requested to meet with representatives of the Membership Services Division to discuss any questions that may have arisen during the Exchange's investigation. The Membership Services Division then either approves the applicant or, if it decides not to approve, it notifies the applicant of its reasons for disapproval and that the applicant is entitled to a hearing under Article IV, Section 1(q) of the Constitution.

ANNEX C

AMERICAN STOCK EXCHANGE, INC.

Amendments to Rules of the Board of Governors[3]

1. Paragraph 1 of "Definitions" is amended to read as follows:

"MEMBER," "ALLIED MEMBER," "MEMBER FIRM," AND "MEMBER CORPORATION," ETC.

1. The terms "member," "allied member," "member firm" and "member corporation," etc. shall have the meanings specified in Article I, Section 3, of the Constitution. The terms "approved person," "[freely transferable] *publicly held* security," "voting stock," and "non-voting stock," when used with respect to a member corporation, shall have the meanings specified in Article I, Section 3 of the Constitution.

2. Paragraph 3 of "Definitions" is deleted in its entirety, and a new paragraph 3 is added, as follows:

[3] NOTE.—*Italics* indicate material to be added and [brackets] indicate material to be deleted.

["PARENT"

3. The term "parent" with reference to another party means any party who has the power to exercise controlling influence over the management or policies of such other party, unless such power is solely the result of an official position with such other party.

Language in CAPITAL LETTERS represents proposed changes contained in File No. SR-Amex-75-15 (relating to Options Principal Members) which has not yet been approved by the SEC.

Any party who owns beneficially, either directly or indirectly, more than 25% of the outstanding voting securities of a first corporation, or more than 25% of the outstanding voting securities of any other corporation which directly or through one or more subsidiaries owns beneficially more than 25% of the outstanding voting securities of the first corporation shall be presumed to be the first corporation's parent. Any party who does not so own more than 25% of the outstanding voting securities of a corporation, shall be presumed not to be such corporation's parent. Any such presumption may be rebutted by evidence but shall continue until a determination to the contrary has been made by the Exchange.]

3. *"Associated with a Member or Member Organization"*

For the purposes of the Constitution and these Rules, the term "associated with a member or member organization" shall have the same meaning as the definition given to the term "associated with a member" in Section 3(a)(21) of the Securities Exchange Act of 1934.

3. Paragraph 13 of "Definitions" is amended to read as follows:

["CONTROLLING PERSON"

13. For the purposes of the Constitution and these Rules, a person shall be presumed to control another person, if such person has a right to participate to the extent of more than 25% in the profits of such other person, or owns beneficially, directly or indirectly, more than 25% of the voting securities or more than 25% of the total capitalization of such person. Any person who does not so participate in profits or who does not so own voting securities or total capitalization of another person shall be presumed not to control such other person. Any such presumption may be rebutted by evidence but shall continue until a determination to the contrary has been made by the Exchange.]

"Control"

13. For the purposes of the Constitution and these Rules, the term "control" means the power to direct or cause the direction of the management or policies of a person whether through ownership of securities, by contract or otherwise. A person shall be presumed to control another person if such person, directly or indirectly,

(i) has the right to vote or cause to be voted 25 percent or more of the voting securities,

(ii) is entitled to receive 25 percent or more of the net profits, or

(iii) is a general partner, director or principal executive officer (or person occupying a similar status or performing similar functions) of such person. Any person who does not come within one of the foregoing categories shall be presumed not to control such other person. Such presumption may be rebutted by evidence, but shall continue until a determination to the contrary has been made by the Exchange.

4. New Paragraphs 15 and 16 are added to "Definitions" as follows:

"Person"

15. The term "person" shall mean a natural person, corporation, partnership, association, joint stock company, trust, fund or any organized group of persons whether incorporated or not.

"Engaged in a Securities or Kindred Business"

16. The term "engaged in a securities or kindred business" shall mean acting as an investment advisor or transacting business generally as a broker or dealer in securities, including servicing customer accounts or introducing them to another organization.

Rule 13 is amended to read as follows:

MEMBERS' ACCESS TO RECORDS

Rule 13. Members, member firms [or partners thereof], OR member corporations [or stockholders therein,] shall not have access to the minutes of the Board of Governors or to the minutes or records of any committee or to the records of the Exchange unless personally interested therein.

5. Rule 50(a) is amended to read as follows:

MEMBER AND PARTNER EXAMINATION REQUIREMENTS

Rule 50. (a) Every applicant for regular, OPTIONS PRINCIPAL, associate or allied membership or for approval as a general partner or officer of an associate member organization shall pass a qualifying examination prescribed by the Exchange, unless the examination is waived by the Exchange.

Each such applicant shall, prior to his approval, agree with the Exchange that he will, within three months after either failing to pass the examination within one year of approval or failing the examination three times, whichever occurs first, disposed of his regular OR OPTIONS PRINCIPAL membership or resign as an allied member and retire as a general partner of [, or dispose of all his voting stock (other than any share of stock which is a freely transferable security) in,] his regular or OPTIONS PRINCIPAL member organization *or sever such business relations with his member organization as require him to be an allied member* or retire as a general partner or officer of his associate member organization, except as provided in (1) or (2) below.

* * * * *

6. Commentary .03 to Rule 111 is amended to read as follows:

.03 An off-Floor order for an account in which a member has an interest is to be treated as an on-Floor order if it is executed by the member who initiated it.

In addition to transactions originated on the Floor by a Registered Trader for an account in which he has an interest, the following transactions are considered on-Floor trading for the purposes of Rules 108, 109, 110 and 111 and subject to all the restrictions on Registered Traders:

* * * * *

(2) Any transaction for a member firm or member corporation for an account in which it has an interest:

* * * * *

(b) which results from an order entered off the Floor following the unsolicited submission from the Floor to the office of a quotation in a stock and the size of the market by a member on the Floor who is a partner of [or stockholder in] such member firm or *is associated with such* member corporation; or

(c) which results from an order entered off the Floor which is executed by a member on the Floor who is a partner of [or stockholder in] such member firm or *is associated with such* member corporation and who had handled the order on a "not-held" basis; provided, however, that the following are not on-Floor orders and such restrictions shall not apply to an order

* * * * *

(ii) to purchase or sell stock for an account in which the member firm or member corporation is directly or indirectly interested if the member or his member firm or member corporation was invited to participate on the opposite side of a block transaction by another member, member [firm or member corporation or a partner or stockholder therein] *organization or member associated therewith, or an approved person thereof,* because the market on the Floor could not readily absorb the block at a particular price or prices; or

(iii) To purchase or sell stock for an account in which the member firm or member corporation is directly or indirectly interested if the transaction is on the opposite side of a block order being executed by the member firm or member corporation for the account of its customer and the transaction is made to facilitate the execution of such order; or

(d) Which results from an order entered off the Floor which is executed by a member on the Floor who is a partner of [or stockholder in] such member firm or *associated with such* member corporation and who has changed the terms of the order.

7. Rules 150 (a) and (b) are amended to read as follows:

PURCHASES AND SALES WHILE HOLDING UNEXECUTED MARKET ORDER

Rule 150. (a) No member shall (1) personally buy or initiate the purchase of any security on the Exchange for his own account or for any account in which he or his member organization or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g), of the Constitution] therein is directly or indirectly interested, while such member personally holds or has knowledge that his member organization or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted market order to buy such security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the Exchange for any such account, while he personally holds or has knowledge that his member organization or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted market order to sell such security in the unit of trading for a customer.

PURCHASES AND SALES WHILE HOLDING UNEXECUTED LIMIT ORDER

(b) No member shall (1) personally buy or initiate the purchase of any security on the Exchange for any such account, at or below the price at which he personally holds or has knowledge that his member organization or any member, [limited partner,] officer, employee, or approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted limited price order to buy such security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the Exchange for any such account at or above the price at which he personally holds or has knowledge that his member organization or any member, [limited partner,] Officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted limited price order to sell such security in the unit of trading for a customer.

8. Rule 152(a) is amended to read as follows:

TAKING OR SUPPLYING STOCK TO FILL CUSTOMER'S ORDER

Rule 152. (a) No member or member organization shall take or supply for any account in which the member, member organization or any other member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] . therein has any direct or indirect interest, of which the member knows or should have known, the securities named in a sell or buy order accepted for execution by the member or member organization except as follows:

* * * * *

9. Rule 152(a)(2)(iv) is amended to read as follows:

(iv) In the case of an order received from a nonmember customer of the member or member organization, the member or member organization prior

to effecting the transaction shall have obtained from the customer the customer's consent that the securities may be taken or supplied for an account in which the member, member organization, or any member, [partner, director, or] officer *or approved person* therein has an interest, and shall also have obtained the customer's agreement that the member or member organization is to charge the customer an amount equal to the commission that would be charged for a similar transaction if executed on an agency basis;

* * * * *

10. Rule 152(a)(2)(v) is amended to read as follows:

(v) In the case of an order received from another member or member organization, the member or member organization receiving the order, promptly after effecting the transaction notifies such other member or member organization that the member or member organization receiving the order took or supplied the securities named in the order for the account of the member, member organization or a member, [partner or director,] *officer or approved person* therein [or a stockholder therein (other than a holder of a freely transferable security only)], and such other member or member organization accepts the trade, in which event such other member or member organization may with his or its consent be charged an amount equal to the commission that would be charged for a similar transaction if executed on an agency basis; and

* * * * *

11. Rule 152(b) is amended to read as follows:

(b) In the event that a member or member organization having executed a sell or buy order accepted for execution as a broker finds that inadvertently the securities sold or purchased in such execution were taken or supplied for an account in which the member, member organization or any member, [partner or director] *officer or approved person* therein [or any stockholder therein (other than a holder of a freely transferable security only)] has a direct or indirect interest, such member or member organization shall report that fact to his or its principal who may accept or reject the trade, and with the principal's consent the member or member organization may charge the principal an amount equal to the commission that would be charged for a similar transaction if executed on an agency basis.

12. Rule 153(b) is amended to read as follows:

(b) Every member shall preserve for at least twelve months a record of every order originating on the Floor of the Exchange given to such member for execution, and of every order originating off the Floor, transmitted by any person other than a member or a member organization or a member, [partner or director] officer *or employee* therein [or a stockholder therein (other than a holder of a freely transferable security only)], to such member on the Floor, which record shall include the name, amount and price of the security and the time when such order was so given or transmitted.

13. Rule 170(e) is amended to read as follows:

(e) No member (other than a specialist acting pursuant to paragraphs (c) or (d) above), [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution,] who is affiliated with a specialist or specialist member organization, shall, during the period of such affiliation, purchase or sell any security in which such a specialist is registered for any account in which such person or party has a direct or indirect interest. Any such person or party may, however, reduce or liquidate an existing position in a security in which such specialist is registered provided that such orders are (1) identified as being for an account in which such person or party has a direct or indirect interest; (2) approved for execution by a Senior Floor Official; and (3) executed by the specialist in a manner reasonably calculated to contribute to the maintenance of price continuity with reasonable depth. No order entered pursuant to this paragraph (e) shall be given priority over, or parity with, any order represented in the market at the same price.

14. Commentary .03 to Rule 171 is amended to read as follows:

.03 Except for such reasonable periods of time and subject to such conditions as the Exchange may approve, specialist units of less than three [men] *natural persons* will not be permitted.

15. Rule 175 is amended to read as follows:

SPECIALIST PROHIBITIONS

Rule 175. No specialist or his member organization, or any member, [limited partner,] officer, employee, or approved person [or party approved pursuant to Article IV. Section 2(g) of the Constitution] therein shall, directly or indirectly:

* * * * *

16. Rule 186 is amended to read as follows:

SPECIALIST MAY NOT BE OFFICER OF CORPORATION

Rule 186(a) No specialist or any member in his member organization, [limited partner,] officer, employee or approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein shall be an officer or director of a corporation which has a security admitted to trading on the Exchange in which security the specialist is registered; and

* * * * *

17. Rule 190(a) and the Commentary to Rule 190 are amended to read as follows:

SPECIALIST'S TRANSACTIONS WITH PUBLIC CUSTOMERS

Rule 190. (a) No specialist or his member organization, or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein, shall, directly or indirectly, effect any business transaction with a company or any officer, director or 10% stockholder of a company in which stock the specialist is registered.

* * * * *

Commentary.

It is contrary to good business practice for a specialist or his member organization, or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein to make any recommendation in any security in which such specialist is registered or to make public statements, oral or written, for the purpose of encouraging or discouraging the purchase or sale of any such security. For purposes of this Commentary, an advertisement identifying a firm as a specialist in any security will be considered a recommendation with respect to such security.

18. Rule 193 is amended to read as follows:

AFFILIATED PERSONS OF SPECIALISTS

Rule 193. (a) Every [limited partner,] approved person [and every party approved pursuant to Article IV, Section 2(g) of the Constitution] who is affiliated with a specialist member organization must agree, in a stipulation approved by the Exchange, not to violate Rules 103, 170, 175, 186 and 190 or cause a specialist or a specialist member organization to violate these or any other rules relating to specialists.

19. Rule 203 is amended to read as follows:

ODD-LOT DEALER JOINT-ACCOUNTS

Rule 203. No odd-lot dealer or his member organization, or [a] *any* member, [partner or director] *officer, or approved person* therein [or a stockholder therein (other than a holder of a freely transferable security only),] shall, directly or indirectly, acquire or hold any interest of participation in any joint-account for buying or selling on the Exchange in a security in which such odd-lot dealer is registered, except a joint-account with a partner of such odd-lot dealer or a regular member or regular member firm or regular member corporation of the Exchange which joint-account has been reported to the Exchange pursuant to Rule 360 and not disapproved.

20. Rules 310(a) and (b) are deleted as follows:

[Rule 310. (a) All shares of stock issued by a member corporation (other than any share which is a freely transferable security) shall be held of record and beneficially by a party approved by the Exchange.

SUBORDINATED DEBT INSTRUMENTS

(b) All debt instruments issued by a member organization and subordinated to the claims of general creditors of such member organization (other than any debt instrument which is a freely transferable security) shall be held of record

and beneficially by a party approved by the Exchange.]

21. Rules 310 (c), (d) and (e) are redesignated as Rules 310 (a), (b) and (c) respectively and, as redesignated, Rules 310(a) and 310(c) are amended to read as follows:

NOTICE TO EXCHANGE

[(-c)] *(a)* [A regular, OPTIONS PRINCIPAL or associate member] *Any party* who intends to organize a member organization, or who intends to become a [stockholder or partner in a member organization or a director or executive officer of an associate member corporation or] *member* in a corporation or firm for which application is made for approval as a member organization [, or who intends to admit any party in a] *and any* member organization [as a] *which proposes to admit therein any* member or [an] approved person [or a limited partner or any other party approval of whom is required by paragraph (a) or (b) of this Rule], shall notify the Exchange in writing before any such action is taken, and shall submit such information in connection therewith *concerning the involved parties and their business activities and relationships* as may be required by the Exchange.

Procedure for approval of [non-member directors and] approved person

[(e)] *(c)* Any person who [is a director of a member corporation but not a member, and any party who owns beneficially 5% or more of the outstanding voting stock of a member corporation] *controls a member or member organization, or who engages in a securities or kindred business and is controlled by or under common control with a member or member organization* but is not [a] *an employee or a member or allied* member shall apply for approval by the Exchange as an approved person of such [member corporation] *organization* by furnishing the Exchange with such information with respect to such applicant, its or his history and business, its stockholders, officers, *partners and* directors, any parent of such applicant, and such other information as the Exchange may from time to time require. Each such applicant shall agree in writing with the Exchange:

(i) To supply the Exchange with information with respect to such applicant's relationship and dealings with the member or member organization with which it is associated as the Exchange may reasonably require; and

(ii) To supply the Exchange with information relating to the existence of any statutory disqualification to which the applicant or person associated with the applicant may be subject, as defined in the Securities Exchange Act of 1934; and

(iii) To abide by such provisions of the Constitution and rules of the Exchange relating the approved persons as shall from time to time be in effect; and

(iv) To permit examination by the Exchange, or any person *designated by it,* at any time or from time to time, of its books and records to *verify the accuracy* of the information *required to be* supplied herein and by the rules of the Exchange.

22. Rules 311 (a) and (b) are amended, and commentary is added thereto, reading as follows:

MEMBER ORGANIZATION CHANGES

Giving notice to Exchange

Rule 311. (a) Each member organization shall give prompt written notice to the Exchange: (1) of the death, retirement or other termination of any party therein required to be approved by the Exchange; (2) of the dissolution of the member organization; [(3) of the proposed issue, redemption, retirement, purchase or sale by a member corporation of any share of stock therein; (4)] *(3)* if any of the conditions for approval of such organization as a member corporation specified in Section 2(e) of Article IV of the Constitution has ceased to be complied with; [(5)] *(4)* of the fact that the [primary activity] *principal purpose* of such member organization has ceased to be the transaction of business as a broker or dealer in securities *as provided in Rule 314;* [(6) of any proposed change in the holdings of any stock issued by such member corporation (other than any share of stock which is a freely transferable security) or of any subordinated debt instrument issued by such member corporation (other than a debt instrument which is a freely transferable security), (7)] *(5)* of any material change in the stockholdings of any member or approved person of such member corporation; or [(8)] *(6)* of any proposed change in or amendment to the charter, certificate of incorporation, bylaws or other documents or agreements of or relating to such member corporation and its stockholders which the Exchange requires to be submitted to or filed with it.

Giving notice to member corporation

(b) Each member and approved person of a member corporation shall promptly notify his member corporation of any material acquisition or disposition of shares of stock of such corporation [which are freely transferable securities.]

* * * *Commentary.*

.10 For purposes of Section (a) and (b) of this Rule a material acquisition or disposition of stock shall be:

(1) a transaction as a result of which any member or approved person of a member corporation becomes or ceases to be the owner of 1% of the outstanding shares of stock of such corporation; or

(2) A transaction on behalf of a member or approved person of a member corporation involving 1% or more of the outstanding shares of stock of such corporation.

23. Rule 312(a) is amended to read as follows:

Rule 312(a). Any prospectus or other offering circular prepared by a member corporation and used in connection with the offering of any security issued by it shall, prior to such use, be submitted by such member corporation to [and be acceptable to] the Exchange.

24. Rule 312(c) is deleted and a new Rule 312(c) is added.

[SOLICITATION OF PROXIES

(c) Each member corporation which has any freely transferable security outstanding shall, prior to each annual or other meeting of the holders of such securities, solicit proxies, consents or authorizations in respect thereof, and in connection with such solicitation shall transmit to the Exchange and to all holders of record of such securities information substantially equivalent to the information required to be transmitted pursuant to a solicitation of proxies subject to Section 14(a) of the Securities Exchange Act of 1934, as amended, and the rules thereunder.]

Lists to be submitted to the Exchange on request

(c) Each member corporation shall, at such times as may be required by the Exchange, submit to the Exchange a list or lists, certified by an officer, stating:

(i) The number of shares of each class of stock of the member corporation held of record or beneficially or both by each member and approved person of such corporation;

(ii) The name of each person directly or indirectly beneficially owning 1 percent or more of the outstanding voting stock of such member corporation and showing the percentage of such ownership; or

(iii) The name of each person who controls, is controlled by, or is under common control with the member organization.

25. Rules 312 (d) and (e) are deleted in their entirety as follows:

[*List of members and approved persons*

(d) Each member corporation shall, at such times as may be required by the Exchange, submit to the Exchange through its chief executive officer a certified list of its members and approved persons showing to the best of his knowledge and belief the number of shares of each class of stock of such member corporation held of record or beneficially or both by each such party.

List of 1 percent stockholders

(e) Each member corporation shall, at such times as may be required by the Exchange, submit to the Exchange through its chief executive officer an affidavit listing to the best of his knowledge and belief the name of each party directly or indirectly beneficially owning 1 percent or more of the outstanding voting stock of such member corporation and showing the percentage of such ownership.]

26. Rule 312 (f) is redesignated rule 312 (d) and is amended to read as follows:

PROVISIONS IN CERTAIN CERTIFICATES OF INCORPORATION

[(f)] *(d)* (i) The certificate of incorporation of each member corporation [which proposes to issue any freely transferable shares] shall contain provisions authorizing the corporation to redeem or convert to a fixed income security all or any part of the outstanding shares of *voting* stock [which are freely transferable securities] of such member corporation owned by any person required to be approved by the Exchange as a member or approved person who fails or ceases to be so approved *as may be necessary to reduce such party's ownership of voting stock in the member corporation policy that level which enables each party to exercise controlling influence over the management or policies of such member corporation.*

(ii) If the certificate of incorporation of a member corporation subject to Rule 470 provides that a stockholder may compel the redemption of his stock, such certificate must provide that without the prior written approval of the Exchange, the redemption may only be effected on a date not less than six months after receipt by the member corporation of a written request for redemption given no sooner than six months after the date of the original issuance of such shares (or any predecessor shares) and in no event shall such redemption be effected if prohibited under the provisions of Securities and Exchange Commission Rule 15c3-1 (see SEC Rule 15c3-1(e)).

Each member corporation shall promptly notify the Exchange of the receipt of any request for redemption of any stock or if any redemption is not made because prohibited under the provisions of Securities and Exchange Commission Rule 15c3-1(e).

Each stock certificate of a member corporation shall carry on its face a statement of such charter provisions or a full summary thereof.

[(See Commentary .20(5) to Rule 170 for responsibility of member organizations to replace capital schedules for withdrawal.)]

27. Rules 312 (g) through (k) are redesignated as Rules 312(e), 312(f), 312(g), 312(h) and 312(i) respectively and, as redesignated, Rules 312(e)(i) and 312(f) through 312(i) are amended to read as follows:

REDUCTION OF CAPITAL

[(g)] *(e)* (i) A member corporation shall not reduce its capital or purchase or redeem any *shares of any* class of its stock [or in any way amend its charter, certificate or incorporation or by-laws] without the prior written approval of the Exchange, and the Exchange may at any time in its discretion require the corporation to restore or increase capital or surplus, or both.

* * * * *

Issuance of [stock or bonds] *debt instruments*

[(h) A member corporation shall not issue any shares of any class of its stock without the prior written approval of the Exchange, or transfer any such shares (other than any share which is a freely transferable security) without such approval.] *(f)* A member corporation shall not issue any bonds, notes or other instruments evidencing funded indebtedness of the corporation [without the prior written approval of the Exchange] *except pursuant to the terms and provisions of an instrument or an agreement between the member corporation and the holder of such security the form of which instrument or agreement has been previously filed with, and approved by, the Exchange.*

PARTY CEASING TO BE APPROVED

[(i)] *(g)* Whenever a party fails or ceases to be approved by the exchange as a member or approved person of a member corporation, such corporation [shall redeem all shares of its stock owned by such party (other than shares which are a freely transferable security) or shall take such other action as may be necessary to cause such party to dispose of such shares. In addition, such member corporation] shall redeem or convert to a fixed income security such of its [freely transferable shares] *voting stock* owned by such party or take such other action as may be necessary to reduce such party's interest in such corporation below *that level which enables such party to* exercise controlling influence over the management or policies of the member *corporation.*

[Whenever a parent of a member corporation fails or ceases to satisfy the requirements of Article IV, Section 2(n) of the Constitution of the Exchange, the member corporation shall redeem or convert to a fixed income security such of its outstanding voting securities owned directly or indirectly by such parent as may be necessary to reduce such parent's direct or indirect ownership of such voting securities below that level which enables the parent to exercise controlling influence over the management or policies of the member corporation.]

TRANSACTIONS BY MEMBER CORPORATION IN ITS SECURITIES

[(j)] *(h)* After the completion of [the] *a* distribution of [a freely transferable security] *its securities,* no member corporation shall effect any transaction (except on an unsolicited basis) for the account of any customer in, or make any recommendation with respect to, any such security issued by such member corporation or *make any recommendation of any security issued* by any corporation controlling, controlled by or under common control with such member corporation.

No member corporation *which has any publicly held security outstanding* shall, without the prior written approval of the Exchange, dispose of any [of its freely transferable] such securit[ies]y for its own account and no such member corporation shall acquire any [of its freely transferable] *such* securit[ies]y for its own account *or for the account of any corporation controlling, controlled by or under common control with such member corporation* except with the prior written approval of the Exchange or pursuant to the terms and provisions of such security or of any agreement between the member corporation and the holder of such security, which agreement has previously been filed with and approved by the Exchange.

SPECIAL LIMITATIONS REGARDING OFFERING OF [FREELY TRANSFERABLE] STOCK

[(k) The use of the proceeds of any offering by a member corporation of any freely transferable security issued by it shall be limited to raising capital.]

(l) The Exchange may require any member organization to file with the Exchange a written report showing the use made by the member organization of the proceeds of any offering of any [freely transferable] security issued by such member organization.

28. Rule 312(l) is redesignated as Rule 312(j) and Rules 312 (m) and (n) are deleted as follows:

[AGREEMENT OF STOCKHOLDER

(m) Each holder of any share of stock of a member corporation which share is not to be a freely transferable security shall with respect to such stock agree with the Exchange that so long as the corporation continues as a member corporation, such stockholder will not without the prior written approval of the Exchange transfer, sell, assign, pledge or otherwise create, or permit to be created, any lien, charge or encumbrance upon such stock.]

[AGREEMENT WITH EXCHANGE WHERE NO FREELY TRANSFERABLE STOCK OUTSTANDING

(n) A member corporation, having no stock outstanding which is a freely transferable security, and all of its stockholders shall agree with the Exchange that if any of the stock in such corporation shall at any time be acquired, held or owned by a person not approved by the Exchange, excepting the estate of a decreased stockholder for such period as may be allowed by the Exchange, or if any stockholder shall violate his agreement with the Exchange referred to in paragraph (l) above, the corporation may be deprived by the Exchange of all the privileges of a member corporation.]

29. Rule 312(o) is redesignated as Rule 312(k) and is amended to read as follows:

SHAREHOLDERS AGREEMENT WITH EXCHANGE [WHERE FREELY TRANSFERABLE STOCK OUTSTANDING]

[(o)A] *(k) Each* member corporation [having any stock outstanding which is a freely transferable security] and each member and approved person of [such] *the* corporation shall agree with the Exchange that [if any share of stock of such corporation which is not a freely transferable security shall at any time be acquired, held or owned by a person not approved by the Exchange, except the estate of a deceased stockholder for such period as may be allowed by the Exchange, or] if any person required to be approved by the Exchange as [an] *a member or* approved person fails or

ceases to be so approved [, or if any stockholder shall violate his agreement with the Exchange,] the corporation may be deprived by the Exchange of all the privileges of a member corporation [and/or] *unless* the corporation [may] redeems or converts the stock held by such person[s] *as required by Section 2(h) of Article IV of the Constitution.*

*30. Rule 313 (a) and (b) are deleted in their entirety as follows:

OWNERSHIP OF INTEREST IN ANOTHER IN MEMBER ORGANIZATION

Rule 313. [(a) Except as provided in PARAGRAPHS (c) AND (e) below no party shall be a member in more than one member organization.

(b) Except as provided in (c) or (d) below, no person who is a member in any member firm, or a member or director in any member corporation, or an individual Exchange member, may beneficially own any stock of any other member corporation, except for such period of time not to exceed one year as the Exchange may permit in connection with a merger into, or acquisition of assets, or other takeover by, or of, such other member corporation, except as otherwise specifically approved by the Exchange; and no individual member or member organization may beneficially own any stock of any other member corporation, except (1) for such period of time not to exceed one year as the Exchange may permit in connection with any such merger, acquisition or other takeover; or (2) in connection with an underwriting of such stock, or (3) in connection with his or its activity as a market maker in such stock, in which event the member or member organization shall be required to be registered with the Exchange as a market maker in such stock; or (4) as provided in (c) or (d) below.]

*31. Rule 313(c) is redesignated as Rule 313(a), and is amended to read as follows:

[(c)] (*a*) One or more regular member organizations may, with the approval of the Board of Governors, own all of the voting stock of another regular or associate member corporation [except for qualifying shares of voting stock held by members or directors of such controlled corporation].

An associate member organization may, with the approval of the EXCHANGE, own all of the voting stock of a regular or an associate member corporation [except for qualifying shares of voting stock held by members or directors of such controlled corporation].

Members in each parent member organization referred to in this paragraph [(c)] (*a*) may be approved as members in the controlled member corporation owned by such parent member organization, but no regular or associate member shall qualify more than one organization for membership.

*31. Rule 313(d) is deleted in its entirety as follows:

[(d) Any member or member organization or any member in or employee of a member organization may own less than 5% of the stock of another member corporation, provided such stock is freely transferable and is publicly held. Under appropriate circumstances the Exchange may treat as a single holding stock which is nominally held by different persons or organizations.]

*33. Rule 313(e) is redesignated as Rule 313(b) and is amended to read as follows:

[(e)](*b*)—THE PARTNERS IN A REGULAR OR OPTIONS PRINCIPAL MEMBER FIRM MAY, WITH THE PRIOR APPROVAL OF THE EXCHANGE, FORM ANOTHER REGULAR OR OPTIONS PRINCIPAL MEMBER FIRM WHOSE PRIMARY ACTIVITY SHALL BE ONE OR MORE OF THE FOLLOWING: SPECIALIZING, ACTING AS A MARKET MAKER OR REGISTERED TRADER IN OPTIONS OR ACTING AS A REGISTERED TRADER IN EQUITY SECURITIES ON THE FLOOR OF A NATIONAL SECURITIES EXCHANGE. [THE GENERAL PARTNERS IN BOTH SUCH REGULAR MEMBER FIRMS SHALL BE THE SAME, AND SHALL BE APPROVED AS MEMBERS IN BOTH FIRMS, BUT] NO REGULAR OR OPTIONS PRINCIPAL MEMBER SHALL QUALIFY MORE THAN ONE FIRM FOR MEMBERSHIP. THE GENERAL PARTNERS MAY HAVE DIFFERENT INTERESTS IN EACH SUCH MEMBER FIRM.

*34 Commentary .01 to Rule 313 is deleted in its entirety as follows:

* * * Commentary.

[.01 For the purposes of this Rule, the term "market maker" shall mean a member or member organization which, with respect to a particular stock of another member corporation, holds himself or itself out (by entering indications of interest in purchasing and selling in an inter-dealer quotations system or otherwise) as being willing to buy and sell for his or its own account on a continuous basis.

In order to become registered as a market maker for the purposes of this Rule with respect to the stock of any member corporation, a member or member organization shall file with the Exchange such application as it may require, shall have and maintain minimum net capital as defined in Rule 470 of $100,000 plus $5,000 for each such stock in excess of five in respect to which such member or member or organization is registered as a market maker under this Rule, and shall, except when such activity is unlawful, meet all of the following conditions with respect to such stock:

(i) Such member or member organization publishes bona fide competitive bid and offer quotations in a recognized inter-dealer quotations system;

(ii) Such member or member organization furnishes bona fide competitive bid and offer quotations to other broker and dealers on request;

(iii) Such member or member organization is ready, willing and able to effect transactions in reasonable amounts and at his or its quoted prices with other brokers or dealers; and

(iv) Such member or member organization has a satisfactory rate of inventory turn-over.]

*35. Commentary .02 to Rule 313 is redesignated as Commentary .10 and is amended to read as follows:

[.02] (*.10*)—FOR THE PURPOSES OF FORMING CONTROLLED REGULAR MEMBER CORPORATIONS UNDER PARAGRAPH [(c)] (*a*) OF THIS RULE THERE MUST BE AT LEAST ONE REGULAR MEMBER WHO HAS CONTRIBUTED THE USE OF HIS MEMBERSHIP TO EACH OF THE PARENT MEMBER ORGANIZATIONS AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH MEMBER ORGANIZATIONS, AND ANOTHER REGULAR MEMBER WHO HAS CONTRIBUTED HIS MEMBERSHIP TO THE USE OF THE CONTROLLED MEMBER CORPORATION AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH CONTROLLED MEMBERS CORPORTION. SIMILARLY, UNDER PARAGRAPH [(e)] (*b*) OF THE RULE THERE MUST BE AT LEAST ONE GENERAL PARTNER WHO IS A REGULAR MEMBER AND HAS CONTRIBUTED THE USE OF HIS REGULAR MEMBERSHIP TO THE FIRST MEMBER FIRM AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH MEMBER FIRM, AND A SECOND GENERAL PARTNER WHO IS A REGULAR MEMBER AND HAS CONTRIBUTED THE USE OF THIS MEMBERSHIP TO THE SECOND MEMBER FIRM AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH MEMBER FIRM.

36. Rule 314 is amended to read as follows:

[Primary Activity] *Principal Purpose* as Broker or Dealer in Securities

Rule 314. (a) The [primary activity] *principal purpose* of every member organization shall be the transaction of business as a broker or dealer in securities.

Criteria.

(b) For the purposes of this Rule, a member organization's activities shall be considered to be the "transaction of business as a broker or dealer in securities" when such member organization (including the corporate affiliates and subsidiaries controlled by the member organization), acts as a Floor trader, specialist, so-called "two dollar broker," odd-lot broker, arbitrageur, or holds itself out to, and transacts business generally with, the public as a broker or dealer in securities, including servicing customers' accounts and introducing them to another member organization. A member organization's ["primary activity"] *"principal purpose"* shall be presumed to be the transaction of business as a broker or dealer in securities, if its gross income

*Language in CAPITAL LETTERS in Rule 313 represents proposed changes contained in both File Nos. SR-Amex-75-15 and SR-Amex-75-16.

(including the gross income of its corporate affiliates and subsidiaries controlled by the member organization) from activities of the type described in the preceding sentence and from interest charges imposed with respect to debit balances in customers' accounts is at least 50% of its total gross income (including the gross income of its corporate affiliates and subsidiaries controlled by the member organization). Any member organization whose gross income fails to satisfy the above requirement shall be presumed not to have as its [primary activity] *principal purpose* the transaction of business as a broker or dealer in securities. Any such presumption may be rebutted by evidence but shall continue until a determination to the contrary has been made by the Exchange.

37. Rule 319 is retitled and is amended by deleting sections (a) and (c) as follows:

[INTEREST IN OWNERSHIP AND PROFIT]

Minimum Compensation for ABC Seatholders

Rule 319. [(a) In the case of a regular member organization which does not have outstanding any freely transferable security, persons other than:

(i) Regular, OPTIONS PRINCIPAL or allied members in a regular member organization or employees of a regular member corporation,

(ii) Former regular, OPTIONS PRINCIPAL or allied members or former employees of a regular member corporation who, after at least five years of service as regular, OPTIONS PRINCIPAL or allied members in their regular member organization or as employees of their regular member corporation, have retired from the organization and from active business life, and

(iii) Widows of persons who at the time of death or retirement were REGULAR, OPTIONS PRINCIPAL or allied members in a regular member organization, or employees of a regular member corporation which widows became participants either prior to or as a result of the death of their husbands,

AND IN THE CASE OF AN OPTIONS PRINCIPAL MEMBER ORGANIZATION WHICH DOES NOT HAVE OUTSTANDING ANY FREELY TRANSFERABLE SECURITY, PERSONS OTHER THAN:

(i) OPTIONS PRINCIPAL MEMBERS, OR ALLIED MEMBERS IN AN OPTIONS PRINCIPAL MEMBER ORGANIZATION OR EMPLOYEES OF AN OPTIONS PRINCIPAL MEMBER CORPORATION;

(ii) FORMER OPTIONS PRINCIPAL MEMBERS OR ALLIED MEMBERS OR FORMER EMPLOYEES OF AN OPTIONS PRINCIPAL MEMBER CORPORATION WHO, AFTER AT LEAST FIVE YEARS OF SERVICE AS OPTIONS PRINCIPAL OR ALLIED MEMBERS IN THEIR OPTIONS PRINCIPAL MEMBER ORGANIZATION OR AS EMPLOYEES OF THEIR OPTIONS PRINCIPAL MEMBER CORPORATION HAVE RETIRED FROM THE ORGANIZATION AND FROM ACTIVE BUSINESS LIFE, AND

(iii) WIDOWS OF PERSONS WHO AT THE TIME OF DEATH OR RETIREMENT WERE OPTIONS PRINCIPAL MEMBERS OR ALLIED MEMBERS IN AN OPTIONS PRINCIPAL MEMBER ORGANIZATION, OR EMPLOYEES OF AN OPTIONS PRINCIPAL MEMBER CORPORATION WHICH WIDOWS BECAME PARTICIPANTS EITHER PRIOR TO OR AS A RESULT OF THE DEATH OF THEIR HUSBAND;

may not own an interest in such member firm or member corporation entitling them to participate to an amount in excess of 45% in the direct or indirect distribution of the profits of such firm or corporation. In the case of a regular member firm or regular member corporation which does not have outstanding any freely transferable security, regular, OPTIONS PRINCIPAL and allied members and employees of regular member corporations must own an interest in such regular member firm or regular member corporation entitling them to participate to an amount of at least 35% in the direct or indirect distribution of the profits of such firm or corporation AND IN THE CASE OF AN OPTIONS PRINCIPAL MEMBER FIRM OR OPTIONS PRINCIPAL MEMBER CORPORATION WHICH DOES NOT HAVE OUTSTANDING ANY FREELY TRANSFERABLE SECURITY, OPTIONS PRINCIPAL AND ALLIED MEMBERS AND EMPLOYEES OF OPTIONS PRINCIPAL MEMBER CORPORATIONS MUST OWN AN INTEREST IN SUCH OPTIONS PRINCIPAL MEMBER FIRM OR OPTIONS PRINCIPAL MEMBER CORPORATION ENTITLING THEM TO PARTICIPATE TO AN AMOUNT OF AT LEAST 35% IN THE DIRECT OR INDIRECT DISTRIBUTION OF THE PROFITS OF SUCH FIRM OR CORPORATION.]

[(b)] A regular member who is a general partner *in a member firm* or [voting stockholder in] *who is associated with* a member organization and whose membership is the subject of an ABC agreement shall be guaranteed at least $16,000 a year by his organization in salary and/or participation in profits. He may be charged with his share of losses or be guaranteed against loss as he and his member organization may agree.

[(c) Neither the interest in capital nor in profit of a regular member organization, owned by all persons as a group who are not United States or Canadian citizens, shall exceed 45%.]

38. Commentaries .10 and .20 to Rule 319 are deleted as follows:

[.10 Interest of regular, OPTIONS PRINCIPAL and allied members. For the purposes of Paragraph (a) of this Rule, the interest of regular, OPTIONS PRINCIPAL and allied members shall include:

(1) In a regular OR OPTIONS PRINCIPAL member partnership the capital accounts of general partners, plus their shares of undistributed profits and less their share of undistributed losses, plus all subordinated borrowings by the regular OR OPTIONS PRINCIPAL member partnership from them and plus the market or fair value of any exchange membership owned by them and not recorded on the books, the proceeds of which are available for firm creditors.

(2) In a regular OR OPTIONS PRINCIPAL member corporation the book value (fair value of net assets applicable to each class of stock) of all capital stock held by holders of voting stock, all debentures held by them, all subordinated borrowings by the member corporation from them, and plus the market value of fair value of any exchange memberships owned by them and not recorded on the books, the proceeds of which are available for creditors of the corporation.

.20 Special requirements for Canadian member organizations.

(1) The member organization and any guaranteed subsidiaries may conduct only an agency business as a securities and commodities broker, plus related minimum risk activities such as investment advisory service, corporate financing advice, merger deals, etc.

(2) All underwriting, firm trading or other substantial risk business must be conducted in a corporate affiliate (Rule 317).

(3) The following must be held in the United States:

(a) All securities carried for the accounts of U.S. customers;

(b) Sufficient other assets to equal at least 105 percent of all other liabilities to U.S. customers and non-customer creditors. In determining the amount of additional assets required to be held in the U.S., consideration must be given to the percentage allowance, if any, accorded such assets under Rule 470.

(4) The member organization must enter into an agreement with the Exchange providing that Section 3(e) of the United States Securities Exchange Act of 1934, as amended, and the rules thereunder, shall be deemed applicable to any hypothecation of securities carried for the account of any customer, whether or not a U.S. customer, and that the member organization will comply therewith in connection with any such hypothecation.

(5) If the member organization does not register with the Securities and Exchange Commission, it must execute a "consent to service" in a form acceptable to the Exchange, designating an acceptable U.S. corporation engaged in such business to be its agent for accepting service of legal documents. See Exhibit VI.]

39. Commentary .02 to Rule 340 is amended to read as follows:

.02 Investigations and Records.—Members and member organizations should make a thorough inquiry into the previous record and reputation of persons whom they contemplate employing. The background and reputation check should, whenever possible, include at least personal conversations with all employers during the previous three years and verification before or promptly after employment of business history for the previous ten years. Further inquiry should be

made where appropriate in the light of background information developed, the position for which the person is being considered, or other circumstances. The verification and investigation should be done by a partner or [voting stockholder] *principal executive officer,* or by an authorized person under their supervision.

* * * * *

40. Commentary .01 to Rule 341 is amended to read as follows:

* * * Commentary.

.01 Employees Required to be Registered or Approved.—Although the employment of each employee of a member or member organization is subject to disapproval by the Exchange, only registered employees, defined to include registered representatives and branch office managers by definitions 6, 7 and 8 commencing at ¶ 9205 of the American Stock Exchange Guide, must be registered, and only officers of a member corporation (and supervisory analysts under Rule 343) must be approved. This Rule relates only to registered employees and officers of member organizations. The requirements for persons seeking Exchange approval as regular members, OPTIONS PRINCIPAL MEMBERS, allied members, partners, [stockholders, directors] *approved persons* and subordinated lenders are set forth in Article IV, Section 2 of the Constitution and Rules 300, 301, 310, 311, 312, 317, 318 and 470. Such persons must file forms prescribed by the Exchange which are available from the Membership Services Division.

* * * * *

41. Commentary .07 to Rule 341 is amended to read as follows:

.07 Qualifications.

(A) Officers.—In determining an individual's qualifications for approval as an officer, the Exchange looks for evidence of the integrity of the individual and record of high standards of business conduct, as shown in the Exchange's investigation and in the investigations and observations of his member corporation employer, previous employers, educational institutions attended, etc. In addition such an individual must be at least [21 years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business.*

(B) Registered Representatives.—In determining a candidate's qualifications for registration the Exchange looks for evidence of:

(1) The integrity of the candidate and his record of high standards of business conduct, as shown in Exchange investigations and in the investigations and observations of his member organization employer, previous employers, educational institutions attended, etc.;

(2) His potential ability to perform creditably the duties of a registered representative, as shown by an employment period of specific training for these duties in a member office or equivalent other experience in the securities business; and

(3) His preparation in the areas of knowledge necessary for a registered representative as demonstrated in an Exchange examination.

Age.—A candidate for registration must be at least [21 years of age] *the minimum age of majority required for his contracts in each jurisdiction in which he conducts business.*

42. Rule 342 and the Commentary thereto are deleted and a new Rule 342 and the Commentary are added as follows:

[REGISTERED EMPLOYEES AND OFFICERS]

Rule 342. (a) Every registered employee or officer of a member or member organization shall devote his entire time during business hours to the business of the member or member organization employing him, and shall not own any stock, or have, directly or indirectly, any financial interest in any other member organization or any non-member organization engaged in any securities, financial or kindred business and, except as permitted by paragraph (b) of this rule, shall not at any time be engaged in any other business or be employed by any other corporation, firm, or individual, or serve as an officer or director of any other corporation without the prior written approval of the Exchange, or except as otherwise permitted by the Rules of the Board of Governors.

(b) The approval of the Exchange is not required to permit a registered employee or officer of a member or member organization to serve as a director or officer of other corporations (1) if the employer wishes to have the registered employee or officer so serve, and if such service will not interfere with the full time performance of his duties as a registered employee or officer of the member or member organization and the positions involve nonoperational duties and responsibilities, or (2) if such employee is subject to and complies with, or receives approval under, the rules and regulations of another exchange having rules comparable to paragraph (a) above and clause (1) of this paragraph, unless the American Stock Exchange otherwise directs.

(c) Every registered employee or officer of a member or member organization shall report to the Exchange each position as an officer or director of any other corporation in which he serves on the date he becomes subject to this rule, and shall thereafter promptly report any changes therein additions thereto, except that no report is required if such employee or officer is subject to and complies with or receives approval under, the rules and regulation of another exchange having rules comparable to paragraph (a) and clause (1) of paragraph (b) of this rule unless the American Stock Exchange otherwise directs.]

[* * * Commentary.

.01 Reports and Approvals. Under this rule, each registered employee not registered with, and each officer not approved by, the New York Stock Exchange must report promptly by letter each outside office and directorship held or changed to the Membership Services Division of the Exchange. Applications for approval for outside employment not complying with the rule should also be made by letter to that Division and will be considered on their particular circumstances.

.02 Leave of Absence. The consent of the Exchange is not required for a leave of absence if the following conditions are met.

(a) The employer retains a written record of the leave;

(b) The registered representative granted the leave is not physically present at any office of the employer and does not act as a registered representative of the employer;

(c) The registered representative does not engage in the securities business during the leave;

(d) The total leave of absence does not exceed one year;

(e) The registered representative does not receive any compensation from the empoyer other than maintenance of fringe benefits, such as medical insurance and the like.

The Exchange will consider the particular circumstances of any request for a leave which does not conform to these conditions.]

Association of Members, Member Organizations, and Persons Associated With Member Organizations

Rule 342. (a) Unless otherwise permitted by the Exchange, every member, allied member, registered representative and officer of a member or member organization who is assigned or delegated any responsibility or authority pursuant to Article IV, Section 2(e)(6) of the Constitution or Rule 320 shall devote his entire time during business hours to the business of such member or member organization.

(b) No member, allied member or employee of a member or member organization shall at any time be engaged in any other business; or be employed or compensated by any other person; or serve as an officer, director, partner or employee of another business organization; or own any stock or have, directly or indirectly, any financial interest in any other organization engaged in any securities, financial or kindred business without the prior written consent of his member organization employer.

(c) No member shall be associated with any broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 without the prior approval of the Exchange.

(d) Prompt written notice shall be given the Exchange whenever any member or member organization knows, or in the exercise of reasonable care should know, that any person, other than a member, allied member or employee, directly or indirectly, controls, is controlled by or is under common control with such member or member organization.

(e) Any member or allied member may become a partner, officer, director

or employee in one or more member organizations provided that such member or allied member may have supervisory responsibilities pursuant to Article IV, Section 2(e)(6) of the Constitution or Rule 320 in only one member organization. No member shall qualify more than one member organization for membership.

(f) Except as otherwise permitted by the Exchange.

1. No member or member organization shall have as a person associated with such member or member organization, any person who is known, or in the exercise of reasonable care should be known, to be subject to any "statutory disqualification" defined in the Securities Exchange Act of 1934; and

2. No allied member, approved person, employee or any person directly or indirectly controlling, controlled by or under common control with a member or member organization shall have associated with him any person who is known, or in the exercise of reasonable care should be known, to be subject to any "statutory disqualification" as defined in the Securities Exchange Act of 1934.

** * * Commentary.*

.10 For the purposes of this rule, the term "associated with a broker or dealer" shall have the same meaning as defined in the Securities Exchange Act of 1934.

43. Rule 365 is amended and Commentary is added thereto, reading as follows:

Rule 365. *Without the prior approval of the Exchange,* [N]*no* member [firm] or member [corporation] *organization* may participate in the profits or losses of a specialist or registered trader joint account [the transactions of which the firm or corporation clears,] unless [a general partner of the firm or a voting stockholder of the corporation] *the member or an individual in the member organization* is registered and active [at the post] *on the Floor* as a specialist *or registered trader* in such joint account.

** * * Commentary.*

.10 A member or member organization may be permitted by the Exchange to provide capital to and participate in the profits or losses of a specialist or registered trader joint account without becoming registered and acting as a specialist or registered trader in such joint account, subject to the following conditions

(a) The participation in the profits or losses of the joint account by any one such member or member organization may not ordinarily exceed 20 percent, and the total participation by all such members and member organizations in the profits or losses of the joint account will generally be limited to 40 percent.

(b) If the member organization clears the transactions of the joint account, its participation in the profits or losses of the joint account normally may not exceed 10 percent.

(c) The Exchange may limit the number of such joint accounts in which a single member or member organization may make investments and have a participation in profits or losses, with a view to prohibiting any undue concentration or dominance over specialist and registered trader joint accounts.

.20 No non-member may participate directly in the profits or losses of a specialist or registered trader joint account.

44. Rule 413 is amended to read as follows:

Rule 413. No form of general agreement between a member firm or member corporation and a customer shall warrant the firm or corporation in using securities carried for the customer for delivery on sales made by the firm or corporation for its own account or for any account in which such firm or [any partner thereof or such] corporation [or any stockholder therein] *or any approved person thereof* is directly or indirectly interested.

45. Rule 420(b) is amended to read as follows:

(b) No member organization shall address and mail statements, confirmations or other communications to a non-member customer in care of any member or member organization or [officer or employee thereof, or any partner of a member firm or stockholder of] *person associated with* a regular OR OPTIONS PRINCIPAL member [corporation] *organization* unless the customer so directs in writing and duplicate copies are sent to such customer at some other address. The Exchange may, on written request, waive the requirement of sending duplicate copies.

The provisions of this paragraph shall not apply to an account of:

(1) [A member, a partner of a member firm or a holder of stock (other than any freely transferable security) in a regular member corporation] *a member or a person associated with a member organization;*

[(2) an officer or employee of a member organization;]

[(3)] (2) an individual who maintains desk space at the office of a member or member organization and who thereby establishes such office as his place of business;

[(4)] (3) a corporation of which a person included in subparagraph (1) [or (2)] above is an officer or director, or the account of a corporation over which such person has a power of attorney, provided, in each case, such person is duly authorized by the corporation to receive communications covering the account;

[(5)] (4) a trust, provided a person included in subparagraph (1) [or (2)] above is a trustee and has been duly authorized by all other trustees to receive communications covering the account;

[(6)] (5) an estate, provided a person included in subparagraph (1) [or (2)] above is an executor or administrator of the estate and has been duly authorized by all other executors or administrators to receive communications covering the account; and

[(7)] (6) a *husband or* wife under circumstances in which [the husband] *his or her spouse* acts as agent, if the [husband] *spouse* is a person included in Subparagraph (1) [or (2)] above.

* * * * *

46. Rule 462 (b) is amended as follows:

(b) The margin which must be maintained in margin accounts of customers, whether members, [partners of members,] member [firms, member corporations or stock holders therein] *organizations or approved persons thereof* or non-members shall be as follows:

* * * * *

47. Rule 462(c)3 is amended to read as follows:

3. Joint Accounts in which the Carrying Member Organization or a Partner *or Member or Approved Person* Thereof [or Stockholder Therein] Has an Interest. In the case of a joint account carried by a member organization in which such organization, or any member [or partner] or any [stockholder (other than a holder of freely transferable stock only)] *approved person* of such member organization, participates with others, the interest of each participant other than the carrying member organization shall be margined by each such participant pursuant to the provisions of this Rule as if such interest were in a separate account.

48. Rule 462(d)4 is amended to read as follows:

4. Guaranteed Accounts. Any account guaranteed by another account may be consolidated with such other account and the required margin may be determined on the net position of both accounts, provided the guarantee is in writing and permits the member organization carrying the account, without restriction, to use the money and securities in the guaranteeing account to carry the guaranteed account or to pay any deficit therein, and provided further that such guaranteeing account is not owned directly or indirectly by (a) a member [or partner] or any [stockholder (other than a holder of freely transferable stock only) in] *approved person of* the organization carrying such account or (b) a member, member organization [or partner] *or approved person* thereof [or any stockholder (other than a holder of freely transferable stock only) therein] having a definite arrangement for participating in the commissions earned on the guaranteed account. [However, the guarantee of a limited partner, if based upon his resources other than his capital contribution to a member firm, or the guarantee of a holder of non-voting stock if based upon his resources other than his interest in a member corporation is not affected by the foregoing prohibition, and such a guarantee may be taken into consideration in computing margin in the guaranteed account.]

* * * * *

49. Rule 471(c) is amended to read as follows:

(c) No drawings, unsecured or partly secured loans or advances of funds by a member organization or any partner, director, officer, employee, [stockholder,] subordinated lender, secured demand note contributor or persons or entities related to, controlled by, or under common control with such persons or in which such persons are employed, hold

office or have a financial interest and no guarantees of obligations of any person shall be made, except with prior written approval of the Exchange, when any of the following conditions exist in a member organization doing a public business, or if such drawings, loans, advances or guarantees would result in any of the following conditions:

* * * * *

50. Rule 521 is amended to read as follows:

Rule 521. Every member [,] and member [firm and member corporation] *organization* shall report promptly to the Exchange any disciplinary action taken by any other exchange, association or government regulatory body against the member, member [firm or partner or employee thereof, or member corporation or officer, director, stockholder or employee thereof,] *organization or any person associated therewith,* together with a statement of the facts upon which the disciplinary action was based.

51. Rule 560(c)(5) is amended to read as follows:

(5) No member or member organization shall directly or indirectly receive any part of the commission referred to in (b) above in connection with any purchase or sale, as the case may be, for his or its own account or the account [of a partner thereof or a stockholder therein (other than a holder of a freely transferable security only)] *of an approved person thereof* or for the account of any other member [,] *or* member organization, [or partner thereof or stockholder therein (other than a holder of a freely transferable security only)] *or approved person thereof* made pursuant to a Special Offering or Special Bid, except that a member or member organization may accept and retain such commission for his or its own account in respect of securities purchased or sold as principal for the bona fide purpose of distribution or acquisition from others, as the case may be, even though such member organization has been unable to distribute or acquire the securities.

52. Rule 724(b) is amended to read as follows:

(b) A member organization which does not regularly have [a partner or voting stockholder] *an associated person* on the Floor, and which enters orders directly through a member on the Floor, shall be deemed to have appointed the member to whom such orders are given as its agent for the purpose of resolving questions, and receiving and signing DK Notices, relating to the execution of such orders.

[FR Doc.77-13914 Filed 5-17-77;8:45 am]

[Release No. 13527; SR-MSE-76-20]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 10, 1977.

On September 20, 1976, the Midwest Stock Exchange, Inc. ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975; and Rule 19b-4 thereunder, copies of a proposed rule change. This proposed rule change was amended on February 23, 1977.

This rule change amended MSE Rule 4 to adopt certain provisions of amended Rule 17a-5.

Notice of the proposed rule change together with the terms of a substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13409, March 28, 1977) and by publication in the FEDERAL REGISTER (42 FR 17927, April 4, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of sections 6 and 17(a) and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on September 20, 1976 and amended on February 23, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14154 Filed 5-17-77;8:45 am]

[Release No. 13526]

NATIONAL SECURITIES CLEARING CORP.

Filing of ("NSCC") Plan for Consolidating Three Operating Divisions of NSCC; and Request for Comments

MAY 10, 1977.

In accordance with the Commission's order granting NSCC registration as a clearing agency,[1] NSCC has filed with the Commission its proposed plan for consolidating the three operating divisions of NSCC. The Commission is requesting public comment on the proposed plan from interested persons by June 6, 1977. The text of the proposed plan is as follows:

CONVERSION PLAN FOR CONSOLIDATED OPERATIONS

This document presents an overview of a systems plan to combine the operations of NSCC's three divisions (the SCC Division, the ASECC Division and the NCC Division) into a single consolidated system. NSCC has determined that the CNS System now being used by the SCC and ASECC Divisions can best meet the needs of the membership. Accordingly, the general approach will be to build on this system and to gradually assume the processing of the NCC Division CNS System.

[1] Securities Exchange Act Release No. 13163 (January 13, 1977), 42 FR 3916 (January 21, 1977).

Condition four of the SEC order granting registration to NSCC required that NSCC make arrangements with another clearing corporation to provide an inter-regional OTC trade comparison capability. By letter dated March 9, 1977, Pacific Clearing Corporation (PCC) has agreed to perform this function. Condition four also required NSCC to make its OTC trade comparison system available to any registered clearing agency that wishes to provide intra-regional OTC comparison services for its participants. NSCC has, by letter, offered to provide its system to any registered clearing agency. A bona fide request has been received from Midwest Clearing Corporation (MCC) and NSCC will shortly be providing the OTC comparison system to them.

Condition one requires that NSCC established interfaces with MCC, PCC and the Stock Clearing Corporation of Philadelphia (SCCP). Listed interfaces will soon be completed when bond transactions are made eligible. The arrangement with PCC provides the basis for adding OTC issues to the interface and thus, with its implementation, the condition will be satisfied. Each of MCC and SCCP, however, must still decide how they wish to handle their intra-regional OTC comparison.

The SEC's first condition also mandates the establishment of appropriate links with Boston Stock Exchange Clearing Corporation and TAD Depository Corporation. NSCC has met with both, developed an approach, and will shortly be providing a proposed method of "linking" to each organization for their review.

Finally, the SEC required that NSCC establish coordinating groups to monitor the progress of the interfaces, links and the sharing of branch facilities. NSCC has written to all parties offering to establish such coordinating groups and anticipates establishing them as responses are received.

Following are the major remaining phases of the consolidation plan. While they are described sequentially, there will be a significant overlap in the development and implementation of many of the steps. Additionally, if conditions dictate, the sequence may be reordered.

I. ENTER INTO A NEW AGREEMENT WITH BRADFORD NATIONAL CLEARING CORPORATION COVERING THE CONSOLIDATION PERIOD

NSCC and Bradford would mutually agree to cancel the existing NCC Division Service agreement and enter into a new agreement to cover the consolidation period. Among the terms of the new agreement would be a provision whereby NSCC would transfer individual NCC Division functions or services to SIAC facilities management in a flexible manner.

II. TRANSFER RESPONSIBILITY FOR THE NCC DIVISION BRANCH OPERATIONS TO SIAC

As a first step in the actual consolidation process, the responsibility for and staffing of the NCC Division branch office network would be assumed by SIAC.

Everything would operate as today, except that SIAC, rather than Bradford, would operate the branch office network.

III. ADD A BRANCH CAPABILITY TO THE EXISTING SCC/ASECC SYSTEM FOR LISTED TRANSACTIONS

After transferring responsibility for the operation of the branch office network to SIAC, a branch capability would be added to the present NSCC Listed CNS System. In this phase, the branch offices would be interacting in New York with Bradford for regional OTC transactions, and with SIAC for listed transactions. To the extent possible, regional securities shipments and transmission equipment would be shared by the two systems.

If NSCC's revised rate structure is not in place prior to the start of this phase, the existing SCC/ASECC rate structure will be applied to listed transactions processed through branch offices. The operating cost of the branches will be passed back to the firms utilizing them in much the same manner as direct clearing firms pay their share of the cost of operating the existing direct clearing service.

When the revised rate structure is installed (and interface fees are eliminated), the cost of branch operations will be assumed by NSCC.

IV. SHARE BRANCH OFFICES WITH OTHER CLEARING AGENCIES

Concurrent with the addition of the branch office listed capability, NSCC would begin sharing its branch facilities with other clearing corporations which had indicated their interest in such an arrangement. Separate agreements would be negotiated with each such clearing corporation covering services to be provided and the method of sharing costs.

V. INTERPOSE THE NSCC LISTED SYSTEM AS AN INTERMEDIARY IN THE SETTLEMENT OF ALL NCC DIVISION/PCC INTERFACE TRANACTIONS

This step would establish the basic mechanism by which the CNS operation of the NCC Division would be transferred to the NSCC Consolidated System. It contemplates leaving the comparison processing as it is today, but interposing the NSCC Listed System between the NCC Division and PCC on the settlement of all NCC Division/PCC OTC interface transactions. This would be accomplished by having the NCC Division change the name on its PCC interface account to that of NSCC (i.e., the SCC/ASECC CNS System), by having PCC substitute the NSCC Listed System rather than the NCC Division System as its contra side for settlement and by entering offsetting transaction into the NSCC CNS Listed System between the NCC Division and PCC Systems. In order to accommodate this procedure, PCC each day would transmit to SIAC a copy of the same compared trade file that it transmits to the NCC Division. Using this file, the required offsetting transactions would be generated in the NSCC Listed CNS System by substituting the NCC Division for each NCC Division participant; substituting PCC for each PCC participant and entering these items into the NSCC Listed CNS System for settlement.

VI. BEGIN IMPLEMENTATION OF THE LINKS MANDATED BY THE SEC'S FIRST CONDITION

In this step, the appropriate links specified by the SEC will start to be implemented. The definition of the links would be accomplished at an earlier date and their implementation would be completed by Step IX.

VII. ADD OTC TRANSACTIONS FROM OTHER CLEARING CORPORATIONS (INCLUDING SEVERAL SMALL NEW YORK NSCC CONSOLIDATED SYSTEM PARTICIPANTS)

In this step, PCC, which has agreed to act as the inter-area OTC comparison agent, would begin to accept OTC inter-area trades (trades between participants of different clearing corporations) from other clearing corporations, including the OTC comparison system operated for NSCC by SIAC. PCC would also continue to receive OTC transactions from the NCC Division until such time as all present NCC Division participants had been converted to the NSCC Consolidated System.

Each participating clearing corporation, including NSCC's Consolidated System, would be assigned a unique regional identifier code (the NCC Division regional codes would remain as at present). The NCC Division System would be modified to extract and send to PCC, along with regular NCC Division/PCC interface trades, any trade where the contra side participant number contained a regional code designating another clearing corporation. The other clearing corporations would also transmit their sides of these trades to PCC for comparison.

NCC Division firms which had been converted to the NSCC Consolidated System would report their OTC trades to SIAC, and all others would continue reporting to the NCC Division. The settlement of these items would be the same as in Step V. Operating in this manner, with the NCC Division treating converted firms (along with interface trades with other clearing corporations) as quasi-PCC members, the NCC Division and NSCC Consolidated Systems would be interfaced.

After receiving the daily trade transmissions, PCC would perform the inter-area comparison and transmit the results relating to each area back to the respective clearing corporation. In addition, PCC would transmit a file to SIAC containing all inter-area compared trades between participants of clearing corporations that do not have a settlement interface. All inter-area trades where a PCC participant was on one side, and where PCC had an interface with the contra side participant's clearing corporation, would be settled by PCC into the appropriate PCC interface account. Those trades where a PCC participant was on one side, but where PCC did not have a settlement interface with the contra side participant's clearing corporation would be settled by PCC into the same common account that is presently used for the PCC/NSCC listed interface.

Inter-area trades in which neither side was a PCC participant would be compared by PCC and transmitted back to the two clearing corporations involved. In addition, for purposes of control, each side of these trades which were between participant's of clearing corporations that do not have a settlement interface would also be settled by PCC into the same common account that is presently used for the PCC/NSCC listed interface (with PCC as the contra side) where they would net out.

Upon receipt of its inter-area compared trade file from PCC, each participating clearing corporation would substitute the account of the contra side participant's clearing corporation for the contraside participant if the two clearing corporations have a settlement interface. For those trades where the clearing corporation did not have a settlement interface with the clearing corporation of the contra side participant, the account number or symbol used for the settlement of transactions with the NSCC Consolidated System would be substituted.

Using the file received from PCC containing compared inter-area trades between participants of clearing corporations that did not have settlement interfaces, SIAC would generate the entries necessary to place the NSCC Consolidated System on the contra side of each such trade. The NSCC Consolidated System would then become the contra side for settlement on all inter-area transactions between clearing corporations that are not interfaced for settlement.

As firms are transferred from the NCC Division System to the NSCC Consolidated System, any shares in their NCC Division free accounts would be placed on automatic deposit to either their TAD or DTC depository accounts. Valued positions in the NCC Division System would be allowed to initially cycle down. At some point, any remaining valued positions would probably be journaled to the NSCC Consolidated System.

In order to eliminate the requirement that PCC convert the various participant numbers or symbols used by each clearing corporation to common participant numbers for comparison purposes, each participating clearing corporation would be responsible for converting its members' numbers or symbols to standard numbers prior to transmitting their inter-area trades to PCC. Any reconversion after comparison would also be the responsibility of the originating clearing corporation.

NSCC would maintain a master list of standard participant numbers and all participating clearing corporations would agree to use these numbers for the comparison and settlement of inter-area trades. Further, in order to facilitate the identification of the clearing center of the major and minor brokers, each standard participant number would have a one-position suffix identifying that participant's clearing corporation. In the case

of the NSCC Consolidated System, at least for an interim period, there would be multiple suffix codes.

The standard code for security identification would be CUSIP and it would be the responsibility of each participating clearing corporation to make necessary conversions.

VIII. PHASE IN THE OTC BRANCH OPERATIONS

After successfully operating all OTC services for several small New York firms settling at NSCC and several firms settling in other clearing corporations, the consolidated OTC operation would be expanded to the regions, one branch at a time.

As branches were added, the NCC Division System would be further modified to additionally extract, for transmission to PCC, any trade where the contra side participant number contained the regional identifier of a converted branch. Subsequent processing and settlement for these transactions would be the same as in Step VII.

IX. PHASE IN THE REMAINING NEW YORK FIRMS

After all regional processing had been totally converted to the NSCC Consolidated System, the last step remaining would be to transfer the OTC business of the larger New York firms, and with them the bulk of the NCC Division free stock, to the consolidated system. The procedure here, as in Steps VII and VIII would be to use the modified NCC Division/PCC interface to route transactions to the proper system. The volume of transactions routed to the NCC Division System would eventually diminish to zero.

X. PHASE IN OTHER NCC DIVISION SYSTEMS

Other systems operated by the NCC Division, such as bond comparison, envelope settlement and national envelope settlement, would be consolidated and transferred to the YIAC operation near the end of the phasing described above.

Concurrent with the implementation steps as outlined above, the rules for clearing fund, membership standards, pricing and systems operation will be developed and submitted to the SEC for review and approval. The initial rules submission will be for a new pricing structure covering the operation of the consolidated system. Subsequent submissions will occur prior to implementation of the various steps in the conversion plan.

The Commission requests that all comments be submitted no later than June 6, 1977. Six copies of each comment letter should be submitted and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Reference should be made to File No. 600-15. All such communications will be placed in the file and will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14157 Filed 5-17-77;8:45 am]

[Release No. 20022; 70-6008]

OHIO EDISON CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding and the Issuance of Bonds for Sinking Fund Purposes

MAY 10, 1977.

Notice is hereby given that the Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308 a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison proposes to issue and sell at competitive bidding up to $75,000,000 principal amount of its First Mortgage Bonds ("new bonds"), in one or more series, each series to mature in not less than 5 nor more than 30 years. The price, which will not be less than 100 percent (unless Ohio Edison shall authorize a lower percentage, not less than 99 percent) nor more than 102¾ percent of the principal amount thereof and accrued interest, and the interest rate (which will be a multiple of ⅛ of 1 percent) will be determined by competitive bidding.

The new bonds are proposed to be issued under the Ohio Edison Indenture dated as of August 1, 1930, to Bankers Trust Company, as Trustee, as heretofore amended and supplemented and as proposed to be amended and supplemented by a Twenty-sixth Supplemental Indenture to be dated as of the fifteenth day of the month in which the new bonds are issued.

The proceeds from the sale of the new bonds are to provide funds for the repayment in part of unsecured short-term debt (estimated to amount to $30,000,000 at the time of such issue) and to provide funds for its construction program which is estimated at approximately $357,000,000 for 1977.

By order dated November 24, 1976 (HCAR No. 19774), this Commission, among other things, authorized Ohio Edison to issue during 1977 an aggregate amount of $12,285,000 principal amount of its First Mortgage Bonds, 3¼ percent Series of 1955, due 1985, in connection with the withdrawal of sinking fund deposits to be made during 1977. These bonds were to be issued on the basis of unfunded property additions.

The estimate of $12,285,000 did not reflect the issuance of the new bonds, which issuance will increase the sinking fund deposit required on or before November 1, 1977, by up to $510,000.

Ohio Edison now also proposes to issue on or about November 1, 1977, a total of $510,000 principal amount of First Mortgage Bonds, 3¼ percent Series of 1955 due 1985 ("additional sinking fund bonds"), in addition to the $12,285,000 principal amount of bonds previously authorized. The bonds will be issued under the indenture of Ohio Edison to Bankers Trust Company, Trustee, as amended and supplemented. The additional sinking fund bonds are to be of the series provided for by the Twelfth Supplemental Indenture dated as of May 1, 1955, and will be identical with those previously authorized. The cash to be withdrawn from the Trustee will be included in Ohio Edison's general funds.

The fees and expenses to be incurred by Ohio Edison in connection with the issue of additional sinking fund bonds are estimated at $1,100, including legal fees of $1,000. The fees and expenses to be incurred in connection with the proposed issue and sale of the new bonds and the fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 6, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14155 Filed 5-17-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 10, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which company has applied to list and register that security on one or more other national securities exchanges:

American Express Company, File No. 7-4943, Common stock, $0.60 par value

Upon receipt of a request, on or before May 25, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14156 Filed 5-17-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03-5130]

FIRST COLONIAL INVESTMENT CORP.

Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by First Colonial Investment Corporation (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

Marion G. Robertson, President and Director, P.O. Box 6322, Portsmouth, Virginia 23703.
Fred W. Schwarz, Secretary-Treasurer and Director, 423 W. Hanbury Road, Chesapeake, Virginia 23322.
Henry S. Poteet, Director, 750 Alder Circle, Virginia Beach, Virginia 23462.

The applicant, a Delaware Corporation, authorized to operated in the State of Virginia, will maintain an office at Pembroke Four, Virginia Beach, Virginia 23463, and will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 250 shares of common stock at $2,000 per share to The Christian Broadcasting Network, Inc., a non-stock charitable corporation which is engaged in national broadcasting and is concerned with the establishment of radio and television broadcast stations, satellite earth stations, television rental and repair services, two-way radios, paying systems, community antennas, etc.

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 act, 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 eonomic disadvatages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the Applicant under this management, including adequat- profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than June 2, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Virginia Beach, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 11, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-14125 Filed 5-17-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

OVERSEAS DEVELOPMENT COORDINATOR/PARIS

Redelegation of Authority Regarding Contract Functions No. 99.1.85, Sahel Development Program—Livestock Sector

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Overseas Development Coordinator/Paris, the authority to sign and approve:

1. U.S. Government contracts, grants and amendments thereto provided that the aggregate amount of each contract, grant or amendment does not exceed $50,000 or its local currency equivalent.
2. Contracts with individuals for the services of the individual alone up to $50,000.

The authority herein delegated may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Overseas Development Coordinator may be exercised by duly authorized persons who are performing the functions of the Overseas Development Coordinator in an acting capacity.

This redelegation of authority shall be effective on the date of signature.

Dated: May 4, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77-14226 Filed 5-17-77;8:45 am]

OXFAM-AMERICA AND INTERNATIONAL DEVELOPMENT FOUNDATION

Termination of Registration

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (AID Regulation 3) 22 CFR, Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that registration with the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development has been voluntarily terminated by the following agencies:

Oxfam-America, 302 Columbus Avenue, Boston, Massachusetts 02116.

International Development Foundation, 175 Clearbrook Road, Elmsford, New York 19523.

Dated: May 10, 1977.

ALLAN R. FURMAN,
Acting Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.77-14209 Filed 5-17-77;8:45 am]

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Ninth meeting of the Board for International Food and Agricultural Development on June 13, 1977. The purpose of the meeting is to review guidelines for the participation of the United States Department of Agriculture and of the National Oceanic and Atmospheric Administration in Title XII activities, to receive a briefing on the activities of the Private Voluntary Organizations in developing countries, to further discuss the strengthening of U.S. universities for participation in Title XII activities and to continue discussion on the matter of eligibility of various universities for participation in Title XII.

The meeting will be held in Room 1105, U.S. Department of State, 21st and Virginia Avenue NW., Washington, D.C., and will begin at 9 a.m. and adjourn at 5:30 p.m. The meeting is open to the public. Dr. Erven J. Long, Associate Assistant Administrator, is designated as the Federal Officer at the meeting. It is suggested that those desiring more specific information contact him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or call 703-235-9054.

Dated: May 13, 1977.

ERVEN J. LONG,
Federal Officer, Board for International Food and Agricultural Development.

[FR Doc.77-14208 Filed 5-17-77;8:45 am]

Office of the Secretary

[Public Notice CM-7/67]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 1 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on June 16, 1977 in Conference Room B-841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., at 9:30 a.m.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to review the status of work under way in U.S. Study Group 1 in preparation for the international meeting in January, 1978.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: May 11, 1977.

GORDON L. HUFFCUTT,
Chairman, United States CCIR National Committee.

[FR Doc.77-14162 Filed 5-17-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

LEATHER WEARING APPAREL FROM THE REPUBLIC OF CHINA

Amendment of Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: United States Customs Service, Treasury Department.

ACTION: Amending Scope of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that the scope of the countervailing duty investigation involving leather wearing apparel, previously classifiable under TSUS item 791.75, from the Republic of China (Taiwan) is being amended to cover such articles classifiable under TSUS item 791.76. Pursuant to Executive Order 11974 (FR 11230A), TSUS item 791.75 was superseded by TSUS items 791.74 and 791.76. The petitioner has requested that the investigation be limited to TSUS item 791.76 articles from the Republic of China.

EFFECTIVE DATE: This amendment will become effective on the date of publication of this notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Vince Kane, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 7, 1977, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (42 FR 12941). It was stated that "(t)he term 'leather wearing apparel', as used in the petition, covers wearing apparel of leather, other than reptile leather, and is classifiable under item 791.75, Tariff Schedules of the United States (TSUS)."

Executive Order No. 11974 of February 25, 1977 (42 FR 11230A), modified a number of item listings in the Tariff Schedules of the United States (TSUS) for purposes of duty-free treatment under the Generalized System of Preferences (GSP), Title V of the Trade Act of 1974. TSUS item 791.75 (wearing apparel not specifically provided for, of leather) was superseded by TSUS items 791.74 and 791.76. Articles classifiable under TSUS item 791.76 are eligible for GSP treatment when imported directly from beneficiary developing countries (except from the Republic of China and the Republic of Korea), while articles classifiable under TSUS item 791.74 are not eligible.

In view of the Executive Order No. 11974 modifications and at the request of the petitioner, the investigation will be confined to leather wearing apparel, classifiable under TSUS item 791.76, from the Republic of China. Furthermore, as long as such articles from the Republic of China are dutiable, it will not be necessary to refer this matter to the U.S. International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), as indicated in the March 7, 1977 notice.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

VERNON D. ACREE,
Commissioner of Customs.

Approved: MAY 9, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-14119 Filed 5-17-77;8:45 am]

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting

Notice is hereby given that pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, a meeting of the Commissioner's Advisory Group will be held on June 6 and 7, 1977, in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The meeting will begin at 10 a.m. on June 6 and 9 a.m. on June 7. The agenda will include various topics concerning the procedures and operations of the Internal Revenue Service.

The meeting will be open to the public. It is to be held in a room accommodating 50 people. In addition to discussion of agenda topics by Committee members, there will be time for statements by nonmembers. Persons wishing to make oral statements should so advise the Executive Secretary prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the Committee by sending it to the Executive Secretary, Room 3011, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Meade Emory, Assistant to the Commissioner, 202-566-4071 (not toll free).

JEROME KURTZ,
Commissioner.

[FR Doc.77-14217 Filed 5-17-77;8:45 am]

VETERANS ADMINISTRATION

HEALTH MANPOWER TRAINING ASSISTANCE REVIEW COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of a meeting of the Health Manpower Training Assistance Review Committee, authorized by the Administrator of Veterans Affairs on August 26, 1974 in the FEDERAL REGISTER (39 FR 30873). This meeting will be in the Veterans Administration Central Office building, Room 119 at 8:30 a.m. to 4 p.m. on June 6 and 7, 1977. The meeting will be for the purpose of review of certain continuation applications for grant assistance to institutions engaged in health manpower training, which assistance is authorized by Pub. L. 92-541. The committee provides recommendations to the Chief Medical Director concerning disposition of the continuation applications being considered. In addition, the committee will consider and advise the agency on the topics of extension legislation for the program, critique and evaluation of the program and preparation of an annual report to Congress.

The meeting will be open to the public each day up to the seating capacity of the room from 8:30 a.m. until 12:30 p.m. to discuss general policies and current status of the program. Because of the limited seating capacity of the room those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, Department of Medicine and Surgery, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420, prior to May 20, 1977. Telephone: 202-389-3072.

The meeting will be closed from 12:30 p.m. until 4 p.m. each day for consideration of individual applications. The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of individual grant applications and similar documents which are exempt from disclosure under section 552b(c)(4) and section 552b(c)(6) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Minutes of the meeting and rosters of the committee members may be obtained from Dr. DeLong at the address given above.

Dated: May 10, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-14161 Filed 5-17-77;8:45 am]

MEDICAL SCHOOL ASSISTANCE REVIEW COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of a meeting of the Medical School Assistance Review Committee, authorized by the Administrator of Veterans Affairs on August 26, 1974 in the FEDERAL REGISTER (39 FR 30873). This meeting will be in the Veterans Administration Central Office Building, Room 119 on June 6 and 7, 1977 starting at 8:30 a.m. The meeting will be for the purpose of review of applications from medical schools for assistance in developing their programs, which assistance is authorized by Pub. L. 92-541. The committee advises the Chief Medical Director on the approval, deferral, return for revision, or disapproval of these applications. In addition the committee will consider and advise the agency on the topics of extension legislation for the program, critique and evaluation of the program and preparation of an annual report to Congress.

The meeting will be open to the public each day up to the seating capacity of the room from 8:30 a.m. to 12:30 p.m. to discuss the general policies and current status of the program. Because of the limited seating capacity of the room those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, Department of Medicine and Surgery, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, prior to May 20, 1977. Telephone: 202-389-3072.

The meeting will be closed from 12:30 p.m. until 4 p.m. each day for consideration of individual applications. The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of individual grant applications and similar documents which are exempt from disclosure under section 552b(c)(4) and section 552b(c)(6) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Minutes of the meeting and rosters of the committee members may be obtained from Dr. DeLong at the address given above.

Dated: May 10, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-14160 Filed 5-17-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 392]

ASSIGNMENT OF HEARINGS

MAY 13, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135288 (Sub-7), McGill's Taxi and Bus Lines, Inc., d/b/a Asheboro Coach Co., now assigned June 1, 1977 at Greensboro, North Carolina, has been postponed to September 7, 1977 (3 days) at Greensboro, North Carolina, in a hearing room to be later designated.

MC 142827, De Marlie Trucking, Inc., application dismissed.

MC 129631 (Sub-No. 53), Pack Transport, Inc., now assigned July 13, 1977, at Seattle, Wash., is postponed indefinitely.

MC 140394 (Sub-No. 1), H.E. & A. National Corp., DBA Roberts Hawaii-Holiday Lines, application dismissed.

MC 140829 (Sub-No. 14), Cargo Contract Carrier Corp., now assigned June 16, 1977, at Omaha, Nebr. is canceled and application dismissed.

MC 340 Sub 41, Querner Truck Lines, Inc. now assigned May 12, 1977 at Dallas, Texas is cancelled.

MC 111545 Sub 230, Home Transportation Co., Inc., MC 123407 Sub 328, Sawyer Transport, Inc., and MC 114552 Sub 124, Senn Trucking Co. now assigned June 1, 1977 at Jacksonville, Florida and will be held in Room 100, Voyager Building, 2255 Phillips Street.

MC 94350 Sub 370, Transit Homes, Inc. now assigned June 6, 1977 at Jacksonville, Florida and will be held in Room 100, Voyager Building, 2255 Phillips Street.

MC-C 9106, Freightways Express, Inc. v Seco Trucking, Inc. now assigned June 3, 1977 at Memphis, Tennessee and will be held in Room 978, Federal Building, 165 Main Street.

MC 100666 Sub 334, Melton Truck Lines, Inc. now assigned June 1, 1977 at Albuquerque, New Mexico and will be held at the Bernalillo County Courthouse, Juvenile Court Room, 415 Tijeras Avenue N.W.

MC 141743 Sub 1, Mark IV Charter Lines, Inc. now assigned June 6, 1977 at Los Angeles, California and will be held in Room 442, U.S. Courthouse, 312 North Spring Street.

AB 12 Sub 29, Southern Pacific Transportation Company Abandonment of Its Napoleonville Branch Between Supreme and Glenwood in Assumption Parish, Louisiana and will be held in the Police Jury Meeting Room, 2nd Floor, Old Courthouse Building, Green Street, at Thibodeau, Louisiana.

MC 128273 Sub 230, Midwestern Distribution, Inc. now assigned June 8, 1977 at New Orleans, Louisiana and will be held in the East Courtroom 223, U.S. Court of Appeals, 600 Camp Street.

MC 128273 Sub 235, Midwestern Distribution, Inc. and MC 111231 Sub 204, Jones Truck Lines, Inc. now assigned June 3, 1977 at New Orleans, Louisiana and will be held in the East Courtroom 223, U.S. Court of Appeals, 600 Camp Street.

MC M5860 Sub 10, Dalby Transfer and Storage, Inc. now assigned June 20, 1977 at Denver, Colorado and will be held in the U.S. Court of Appeals, Division One, 1961 Stout Street.

MC-P 12962, F-B Truck Line Company—Control—Machinery Transport, Inc. now assigned June 7, 1977 at Denver, Colorado and will be held in Room 587, U.S. Federal Building and Courthouse, 19th and Stout Streets.

MC 128273 Sub 242, Midwestern Distribution, Inc. now assigned June 15, 1977 at Denver, Colorado and will be held in the U.S. Court of Appeals, Division Two, 1961 Stout Street.

MC 123407 Sub 342, Sawyer Transport, Inc. now assigned June 13, 1977 at Denver, Colorado and will be held in the U.S. Court of Appeals, Division Two, 1961 Stout Street.

MC 107295 Sub 827, Pre-Fab Transit Co. now assigned June 7, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.

MC 113325 Sub 145, Slay Transportation Co., Inc. now assigned June 8, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.

MC 142188 Sub 1, Mary Wimberly and Betty Beals, dba Wimberly Bus Service now assigned June 13, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.

MC 119765 Sub 38, Eight Way Xpress, Inc. now assigned June 9, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.

MC 134755 Sub 79, Charter Express, Inc. now assigned June 9, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.

MC 119974 Sub 61, L.C.L. Transit Company now assigned June 14, 1977 at Chicago, Illinois and will be held in Court Room 1903, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 8964 Sub 31, Witte Transportation Co. now assigned June 13, 1977 at Des Moines, Iowa and will be held in Room 113, Federal Building, 210 Walnut Street.

MC 116915 (Sub-28), Eck Miller Transportation Corporation, now assigned June 1, 1977 at Louisville, Kentucky, will be held in the Holiday Inn South I-65 & 3317 Fern Valley Road.

MC 112617 (Sub-145), Liquid Transporters, Inc., now assigned June 6, 1977 at Louisville, Kentucky, will be held in Room 1052A Federal Building, 600 Federal Place.

MC 135235 (Sub-No. 5), Loma Cargo, Inc., now assigned June 6, 1977 at Chicago, Illinois, will be held in Room 286 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-F-13011, Jack I. Murphree—Continue Control—Jimco, Inc.; MC 96961 (Sub-3), West Tennessee Motor Express, Inc., and MC 142586, Jimco, Inc., now assigned June 7, 1977 at Nashville, Tennessee, will be held in Room A-44 U.S. Courthouse Annex, 801 Broadway.

MC 142291, MDI, Inc., now assigned June 7, 1977 at Minneapolis, Minnesota, will be held in Court Room 2 Federal Building and U.S. Courthouse, 316 North Robert Street.

MC 127811 (Sub-8), Brynwood Transfer, Inc., now assigned June 8, 1977 at Minneapolis, Minnesota, will be held in Court Room 2 Federal Building and U.S. Courthouse, 316 North Robert Street.

MC 113855 (Sub-358), International Transport, Inc., now assigned June 9, 1977 at Minneapolis, Minnesota, will be held in Court Room 2 Federal Building and U.S. Courthouse, 316 North Robert Street.

AB-1 (Sub-29), Chicago and Northwestern Transportation Company Abandonment Between Hayward and Bayfield, Also Between Ashland Junction and Ashland, all in Sawyer, Ashland and Bayfield Counties, Wisconsin, now assigned June 13, 1977 at Ashland, Wisconsin, will be held in the County Board Room Ashland County Courthouse.

MC 112595 (Sub-64), Ford Brothers, Inc.; MC 112617 (Sub-346), Liquid Transporters, Inc. and MC 116254 (Sub-166), Chem-Haulers, Inc., now assigned June 2, 1977 at Louisville, Kentucky, will be held in the Holiday Inn South, I-65 and 3317 Fern Valley Road.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14174 Filed 5-17-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

MAY 13, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission May 30, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1647 (Sub-No. 3), filed June 4, 1974. Applicant READDING VAN & STORAGE CO., INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Massachusetts, Rhode Island, and Connecticut. The purpose of this filing is to eliminate the gateway of points in Cape May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC 4405 (Sub-No. E29) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 28, 1975, and republished, as corrected, this issue. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as require special equipment and handling by reason of their unusual weight, bulk, or length, and *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in California in and south of Inyo, Fresno, Madera, Mariposa, Stanislaus, San Joaquin, Contra Costa, and San Francisco Counties. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill., points in Oklahoma, Texas, New Mexico, and those in California in and south of Mono, Tuolumme, Stanislaus, Santa Clara, and Santa Cruz Counties, and north of a line beginning at the Pacific Ocean extending through Monterey, Salinas, Fresno, Dunlap, and Independence, Calif., to the California-Nevada State line.

NOTE.—The purpose of this correction is to alter the radial territory so that it includes points in California in and south of the named counties.

No. MC 4405 (Sub-No. E58) (correction), filed June 4, 1974, and published in the FEDERAL REGISTER issue of December 17, 1975, and republished, as corrected, this issue. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require special equipment and handling by reason of their unusual weight, bulk, or length, and *self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, tools, parts, and supplies* moving in connection, therewith, between points in Arkansas, Louisiana, Tennessee, Mississippi, Alabama, Florida, Georgia, North Carolina, and South Carolina, on the one hand, and, on the other, points in New Mexico and Arizona. The purpose of this filing is to eliminate the gateway of points in Arkansas or Mississippi and Texas and New Mexico.

NOTE.—The purpose of this correction is to add points in Florida, Georgia, North Carolina, and South Carolina which were inadvertantly omitted in the prior publication.

No. MC 4405 (Sub-No. E60) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of December 17, 1975, and republished, as corrected, this issue. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require special equipment and handling by reason of their unusual weight, bulk, or length, and *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection herewith, between points in Washington, on the one hand, on, on the other, points in E. St. Louis, Ill., restricted against the transportation of traffic between those points in Washington, east of Benton, Douglas, Grant, and Okanogan Counties, on the one hand, and, on the other, those in Missouri in and west of Mercer, Grundy, Livington, and Carroll Counties, and

those in Clay and Day Counties. The purpose of this filing is to eliminate the gateway of Savannah, Ga.

NOTE.—The purpose of this correction is to restrict the scope of applicant's proposal to conform with its underlying authority.

No. MC 4405 (Sub-No. E86), filed June 4, 1974. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck and trailer bodies* (A) from points in South Carolina to points in Arizona, California, Idaho, Nevada, Utah, Oregon, Washington, and those in New Mexico on and south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 84 to junction U.S. Highway 66 to the New Mexico-Arizona State line; (B) from points in South Carolina on and east of U.S. Highway 1 to points in Montana, Wyoming, Texas, and those in New Mexico north of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 66 to the New Mexico-Arizona State line; (C) from points in North Carolina to those points in Arizona on and south of U.S. Highway 60, points in California, Oregon, Washington, and Nevada (except Elko County, Nev.); (D) from points in North Carolina on and east of U.S. Highway 1 to points in Idaho and those in Montana on and west of a line beginning at the International Boundary line between the United States and Canada and extending along Montana Highway 238 to junction U.S. Highway 87 to the Montana-Wyoming State line; (E) from points in Virginia on and east of U.S. Highway 15 to points in Arizona, and those in California on, south, and west of a line beginning at the Pacific Ocean and extending along Interstate Highway 80 to junction U.S. Highway 99 to junction California Highway 168 to the California-Nevada State line; (F) points in Virginia on and east of U.S. Highway 301 (except points in Northampton and Accomac Counties) to points in California north of a line beginning at the California-Nevada State line and extending along U.S. Highway 50 to Sacramento, thence along Interstate Highway 5 to junction Interstate Highway 580 to junction Interstate Highway 80 to the Pacific Ocean; and (G) from those points in Virginia on, south, and east of a line beginning at the Chesapeake Bay and extending along Virginia Highway 33 to junction Interstate Highway 64 to junction Interstate Highway 95 to the Virginia-North Carolina State line (except points in Northampton and Accomac Counties) to points in Nevada, Utah, Washington and those in Texas north of Interstate Highway 10. The purpose of this filing is to eliminate the gateway at Savannah, Ga.

No. MC 60014 (Sub-No. E149), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils, between points in Wisconsin, on the one hand, and, on the other points in Maryland. Gateways to be eliminated: points in Columbiana County, Ohio.

No. MC 60014 (Sub-No. E150), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils, between points in Wisconsin on the one hand, and, on the other, points in Delaware, New Jersey, New York, Pennsylvania, points in Virginia on and east of a line beginning at a point on Virginia Highway 311 at Alleghany, Virginia, near the Virginia-West Virginia State Line, thence south on Virginia Highway 311 to Roanoke, Virginia, thence south on the Blue Ridge Parkway to the Virginia-North Carolina State Line, points

No. MC 60014 (Sub-No. E151), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, post, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils, the transportation of which by reason of their size or weight, require the use of special equipment between points in Wisconsin on the one hand, and, on the other, points in Ohio on and east of a line at Sandusky, Ohio, thence south on Highway 4 to Marion, thence south on Highway 423 to U.S. Highway 23, thence south on U.S. Highway 23 to Columbus, thence south on U.S. Highway 23 to Chillicothe, thence south on U.S. Highway 23 to Portsmouth, Ohio. Gateways to be eliminated: (1) points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State Line (except points in Licking County, Ohio).

No. MC 60014 (Sub-No. E152), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Wisconsin on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, Rhode Island, points in Massachusetts on and east of line commencing at a point north of North Heath, Massachusetts, on State Highway 8A, thence south on State Highway 8A to Windsor, Massachusetts, thence east on State Highway 9 to Cummington, Massachusetts, thence south on State Highway 112 to Huntingdon, Massachusetts, thence west on U.S. Highway 20 to West Beckett, Massachusetts, thence south on State Highway 8 to the Massachusetts-Connecticut State line and points in Vermont east of a line commencing at a point south of Rock Island, Quebec, on U.S. Highway 5 to Derby Center, Vermont, thence south on U.S. Highway 5 to Saint Johnsbury, Vermont, thence west on U.S. Highway 2 to Montpelier, Vermont, thence south on State Highway 12 to Bethel, Vermont, thence east on State Highway 107 to the intersection State 14 and State Highway 107, thence south on State Highway 14 to White River Junction, Vermont, thence south on U.S. Highway 5 to Massachusetts-Vermont State line.

Gateways to be eliminated: (1) points in Columbiana, Counties, Ohio, points in that part of Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 147 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to Trout Run, thence along U.S. Highway 15 to the Pennsylvania-New York State line, (3) points in Pennsylvania on New York, and points in that part of Massachusetts on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence along Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E153), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, pil-*

ing, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils (except commodities requiring special equipment), between: points in the Wisconsin north and west of a line commencing on U.S. Highway 51 at Beloit, Wisconsin, thence north on U.S. Highway 51 to Janesville, Wisconsin, thence north of State Highway 26 to Fort Atkinson, Wisconsin, thence east on State Highway 106 to the intersection of State Highway 107 and State Highway 67, thence south on State Highway 67 to Eagle, Wisconsin, thence north on State Highway 59 to Waukesha, Wisconsin, thence east on State Highway 59 to Milwaukee, Wisconsin, on the one hand, and, on the other, points in Massachusetts. Gateways to be eliminated: (1) points in Columbiana County, Ohio, in Pennsylvania on and west of a line extending from the Pennsylvania Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, thence along U.S. Highway 15 to the Pennsylvania-New York State line, (2) points in Pennsylvania or New York, (3) Greenwich, Connecticut, and, points within 10 miles of Greenwich, (4) points in Massachusetts on and east of U.S. Highway 5, points in Connecticut.

No. MC 60014 (Sub-No. E154), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between: points in Wisconsin north and west of a line commencing on U.S. Highway 51 at Beloit, Wisconsin, thence north on U.S. Highway 51 to Janesville, thence north on Highway 26 to Fort Atkinson, thence east on Wisconsin Highway 106 to the intersection of Wisconsin Highway 106 to the intersection of Wisconsin Highway 107 and Wisconsin Highway 67, thence south on Wisconsin Highway 67 to Eagle, thence north on Wisconsin Highway 59 to Waukesha, thence east on Wisconsin Highway 59 to Milwaukee, Wisconsin, on the one hand, and, on the other (F) points in Massachusetts.

Gateways to be eliminated: (1) Points in Columbiana County, Ohio, those in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line, (2) points in Pennsylvania, or New York, (3) Greenwich, Connecticut, points within 10 miles of Greenwich, (4) points in Massachusetts on and east of U.S. Highway 5, and, (5) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E155), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between: Points in Illinois on the one hand, and, on the other, points in Maryland. Gateways to be eliminated: Points in Columbiana, Cuyahoga, Mahoning, Summit, or Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E156), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils (except commodities requiring special equipment), between points in Wisconsin on the one hand, and, on the other, points in West Virginia and points in Virginia east of U.S. Highway 23. Gateways to be eliminated: (1) *Cambridge and Zanesville, Ohio.*

No. MC 60014 (Sub-No. E157), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (the transportation of which, by reason of their size or weight, require the use of special equipment), between points in Illinois on the one hand, and, on the other, points in Ohio east of a line beginning at Lake Erie, thence along Ohio Highway 13 to Ohio Highway 61, thence along Ohio Highway 61 to Ohio Highway 98, thence along Ohio Highway 98 to Ohio Highway 19, thence along Ohio Highway 19 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 61, thence along Ohio Highway 61 to junction Interstate Highway 71, thence along Interstate Highway 71 to U.S. Highway 33, thence along U.S. Highway 33 to junction Ohio Highway 93, thence along Ohio Highway 93 to the U.S. Highway 35, thence along U.S. Highway 35 to Ohio Highway 160, thence along Ohio Highway 160 to the Ohio River. Gateways to be eliminated: (1) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E158), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Illinois on and north of Interstate Highway 80, on the one hand, and, on the other, points in West Virginia, north and east of a line beginning at the Ohio-West Virginia State Line extending along U.S. Alternate Highway 50, thence along U.S. Alternate Highway 50 to junction of U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction U.S. Highway 219/250, thence along U.S. Highway 219/250 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State Line. Gateways to be eliminated: (1) Points in *Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio*, and (2) points in *Brooke, Hancock, Marshall, and Ohio Counties, West Virginia.*

No. MC 60014 (Sub-No. E159), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Illinois, south of Interstate Highway 80 and points north of a line beginning at Iowa-Illinois State Line and extending along Illinois Highway 104 to U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 36 and 54, thence along U.S. Highway 36 and 54 to junction on the one hand, and, on the other, to the Illinois-Indiana State Line. Points in West Virginia north and east of a line beginning at the Ohio-West Virginia State Line on West Virginia Highway 20, along West Virginia Highway 20 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 250, thence along U.S. Highway 250 to the West Virginia State Line. Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, (2) points in Brooke, Hancock, Marshall, and Ohio Counties, West Virginia.

No. MC 60014 (Sub-No. E170-E), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment), between points in Pennsylvania on the one hand, and, on the other, points in Ohio on and southwest of a line beginning at Lake Erie, and extending along Ohio Highway 306 to junction U.S. Highway 322, thence along U.S. Highway 322 to the Ohio-Pennsylvania State line. Gateways to be eliminated: Points in that part of Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 83 to Harrisburg, thence along Pennsylvania Highway 147 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line.

No. MC 60014 (Sub-No. E171), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment) between points in Indiana on and south of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 41 to U.S. Highway 460, thence along U.S. Highway 460 to junction Interstate Highway 264, thence along Interstate Highway 264 to junction U.S. Highway 31W, thence along U.S. Highway 31W to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 403, thence along Indiana Highway 403 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 203, thence along Indiana Highway 203 to junction Indiana Highway 356, thence along Indiana Highway 356 to junction Indiana Highway 56/62, thence along Indiana Highway 56/62 to junction Indiana Highway 107, thence along Indiana Highway 107 to junction Indiana Highway 62, thence along Indiana Highway 62 to junction Indiana Highway 250, thence along Indiana Highway 250 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Ohio on and east of a line beginning at the Michigan-Ohio State line and extending along U.S. Highway 23 to junction Interstate Highway 425, thence along Interstate Highway 425 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Ohio Highway 199, thence along Ohio Highway 199 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Ohio Highway 13, thence along Ohio Highway 13 to junction Ohio Highway 33, thence along Ohio Highway 33 to the West Virginia-Ohio State line.

Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E172), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails rods roof bolt mats roofing strip, structurals tank parts, tubing and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment) between points in Indiana on and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 50 to junction U.S. Highway 50/150, to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 337, thence along Indiana Highway 377 to junction Indiana Highway 135, thence along Indiana Highway 135 to the Indiana-Kentucky State line, on the one hand, and on the other, points in Ohio on and east of a line beginning at Lake Erie and extending along Ohio Highway 163 to junction Ohio Highway 105, thence along Ohio Highway 105 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 423, thence along Ohio Highway 423 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 56, thence along Ohio Highway 56 to junction Ohio Highway 327, thence along Ohio Highway 327 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Ohio Highway 588, thence along Ohio Highway 588 to the Ohio-West Virginia State line. Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E173), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, *iron and steel angles, bars, channels, conduit, fencing flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats roofing, strip, structurals, tank parts tubing and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment) between points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 18 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Interstate Highway 69, thence along Interstate Highway 68 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Ohio State line, on the one hand, and, on the other, points in Ohio on and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 23 to junction Highway 22, thence along U.S. Highway 22 to junction Ohio Highway 37, thence along Ohio Highway 37 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Ohio Highway 79, thence along Ohio Highway 79 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line. Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from

Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E174), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to junction Pennsylvania Highway 154, thence along Pennsylvania Highway 154 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to junction Pennsylvania Highway 239, thence along Pennsylvania Highway 239 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Pennsylvania Highway 248, thence along Pennsylvania Highway 248 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in Connecticut. Gateways to be eliminated: (1) Points in New York; and (2) Greenwich, Conn.

No. MC 60014 (Sub-No. E175), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in Pennsylvania on and south of a line beginning at the Ohio-Pennsylvania State line and extending along Pennsylvania Highway 358, to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 321, thence along Pennsylvania Highway 321 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 255, thence along Pennsylvania Highway 225 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 118, thence along Pennsylvania Highway 118 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Maine.

Gateways to be eliminated:

(1) Points in New York. (2) Greenwich, Connecticut. (3) Points in Massachusetts on and east of U.S. Highway 5. (4) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E176), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), points in Indiana, on the one hand, and, on the other, points in New Hampshire, Rhode Island, Connecticut, Maine, Vermont, on and east of a line beginning at the Canada-United States Border, extending along U.S. Highway 5 to the junction of U.S. Highway 302, thence along U.S. Highway 302 to the Vermont-New Hampshire State line and Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along Massachusetts Highway 8A to the junction of Massachusetts Highway 9, thence along Massachusetts Highway 9 to the junction of Massachusetts Highway 112, thence along Massachusetts Highway 112 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line.

Gateways to be eliminated: (1) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (2) Pennsylvania. (3) New York. (4) Greenwich, Connecticut. (5) Points in Massachusetts on and east of U.S. Highway 5. (6) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (a or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E177), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, and tubing and wire in coils*, between points in Indiana west of a line beginning at the Ohio-Indiana State line and extending along Indiana Highway 32 to junction Interstate Highway 69, thence along Interstate Highway 69 to Junction U.S. Highway 36, thence along U.S. Highway 36 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in West Virginia on and east of a line beginning at the Pennsylvania-West Virginia State line and extending along West Virginia Highway 69 to junction U.S. Highway 250, thence along U.S. Highway 250 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Maryland State line.

Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (2) And points in Brooke, Hancock, Marshall, and Ohio Counties, West Virginia.

No. MC 60014 (Sub-No. E178), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (the transportation of which by reason of their size or weight, require the use of special equipment), between points in Indiana, on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Delaware and the District of Columbia.

Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahonig, Summit and Trumbell Counties, Ohio. (2) And points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north

along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line.

No. MC 60014 (Sub-No. E179), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mates, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Indiana, on the one hand, and, on the other, points in Maryland.

Gateways to be eliminated:

(1) Points in Columbiana, Cuyahoga, Mahoning, Summit and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E180), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in New Jersey, on the one hand, and, on the other, points in Massachusetts on and east of US Highway 5. The purpose of this filing is to eliminate the gateways of (1) points in New York and points in Connecticut within 10 miles of Greenwich, Conn., and (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E181), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing; flooring; joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment) between points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line, and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to the New Jersey-New York State line, on the one hand, and, on the other, points in Connecticut.

Gateways to be eliminated: (1) Points in New York and points in Connecticut within 10 miles of Greenwich, Conn. (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. 182), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in New Jersey, to points in Alabama, Mississippi, Kentucky and points in Tennessee west of U.S. Highway 27. Gateway to be eliminated: (1) Wheeling and Beechbottom, W. Va.

No. MC 60014 (Sub-No. E183), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line, and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction New Jersey Highway 284, thence along New Jersey Highway 284 to the New Jersey-New York State line, on the one hand, and, on the other, joints in Vermont on and east of a line beginning at the International Boundary line between the United States and Canada and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction of Vermont Highway 15/15A, thence along Vermont Highway 15/15A to junction Vermont Highway 15, thence along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 302, thence along U.S. Highway 302 to junction Vermont Highway 110, thence along Vermont Highway 110 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 106;

Thence along Vermont Highway 106 to junction Vermont Highway 131, thence along Vermont Highway 131 to the Vermont-New Hampshire State line; points in New Hampshire on and northeast of a line beginning at the Vermont-New Hampshire State line and extending along New Hampshire Highway 12/103, thence along New Hampshire Highway 12/103 to junction New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line, points in Rhode Island on and north of Interstate Highway 6.

Gateways to be eliminated: (1) Points in New York, points in Connecticut, (2) Within 10 miles of Greenwich, Connecticut, and (3) Points in Massachusetts on and east of U.S. Highway 5.

No. MC 60014 (Sub-No. E184), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between: points in Maryland on the one hand, and, on the other, points in Connecticut. Gateways to be eliminated: (1) points in New York and points within 10 miles of Greenwich, Conn.

No. MC 60014 (Sub No. E185), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, the transportation of which, because of their size or weight, require the use of special equipment), between points in Maryland, on the one hand, and, on the other, points in Ohio. Gateways to be eliminated: (1) Points in West Virginia. (2) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E186), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mates, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, points in Vermont on and east of a line beginning at the International Boundary line between the United States and Canada and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction of U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line points in Rhode Island on and north of a line beginning at Connecticut-Rhode Island State line and extending along Rhode Island Highway 165 to the junction of Rhode Island Highway 102, thence along Rhode Island Highway 102 to the junction of U.S. Highway 1-A, thence along U.S. Highway 1-A to Rhode Island Sound, points in Massachusetts on and east of U.S. Highway 5.

Gateways to be eliminated: (1) Points in New York, (2) points within 10 miles of Greenwich, Connecticut, (3) points in Massachusetts on and east of U.S. Highway 5, (4) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E187), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in Maryland, to points in Mississippi, points in Alabama on and west of a line beginning at the Mississippi-Alabama State line, and extending along Alabama Highway 10 to the junction of Alabama Highway 5, thence along Alabama Highway 5 to the junction of Alabama Highway 116, thence along Alabama Highway 116 to the junction of Alabama Highway 36, thence along Alabama Highway 36 to the junction of Alabama Highway 23, thence along Alabama Highway 23 to the junction of Alabama Highway 81, thence along Alabama Highway 81 to the junction of Alabama Highway 22, thence along Alabama Highway 22 to the junction of Alabama Highway 140, thence along Alabama Highway 140 to the junction of Alabama Highway 8, thence along Alabama Highway 8 to the junction of Alabama Highway 75, thence along Alabama Highway 75 to the Alabama-Georgia State line, points in Tennessee on and west of a line beginning at the Tennessee-Alabama State line and extending along Tennessee Highway 27 to the junction of Tennessee Highway 108, thence along Tennessee Highway 108 to the junction of Tennessee Highway 111, thence along Tennessee Highway 111 to the junction of Tennessee Highway 42, thence along Tennessee Highway 42 to the Tennessee-Kentucky State line, points in Kentucky on and west of a line beginning at the Virginia-Kentucky State line, extending along U.S. Highway 25 to the junction of Kentucky Highway 80, thence along Kentucky Highway 80 to the junction of U.S. Highway 460, thence along U.S. Highway 460 to the Kentucky-Virginia State line. Gateway to be eliminated: Wheeling, W. Va.

No. MC 60014 (Sub-No. E188), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, the transportation of which, because of size or weight, require the use of special equipment), between points in Delaware, on the one hand, and, on the other, points in Ohio. Gateways to be eliminated: (1) Points in Pennsylvania. (2) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E189), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), between points in Delaware, on the one hand, and, on the other, points in Connecticut. Gateways to be eliminated: (1) New York. (2) Within 10 miles of Greenwich, Conn. Greenwich, Connecticut.

No. MC 60014 (Sub-No. E190), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146 Applicant's representative: William J. Rorison (same as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in Delaware on the one hand, and, on the other, points in Massachusetts on and east of U.S. Highway 5. Gateways to be eliminated: (1) points in New York and points within 10 miles of Greenwich, Conn. (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E191), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146 Applicant's representative: William J. Rorison (same as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in Delaware on the one hand, and, on the other, points in Maine. Gateways to be eliminated: (1) Points in New York within 10 miles of Greenwich, Conn. (2) Points in Massachusetts on and east of U.S. Highway 5. (3) Points within 35 miles of Boston, Mass.

No. MC 60014 (Sub-No. E192), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146 Applicant's representative: William J. Rorison (same as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in Delaware, on the one hand, and, on the other, points in New Hampshire, Rhode Island, and points in Vermont on and east of a line beginning at Lake Champlain, thence along U.S. Highway 7 to the intersection of U.S. Highway 7 and Vermont Highway 103, thence along Vermont Highway 103 to the intersection of Vermont Highway 155, thence along Vermont Highway 155 to the intersection of Vermont Highway 100, thence along Vermont Highway 100 to the intersection of Vermont Highway 30, thence along Vermont Highway 30 to the intersection of U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line. Gateways to be eliminated: (1) Points in New York. (2) Greenwich, Connecticut. (3) Points in Massachusetts on and east of U.S. Highway 5. (4) Points in that part of Massachusetts on and east

of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E193), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in Delaware to points in Mississippi, points in Kentucky on and east of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Highway 23 to the junction of U.S. Highway 23/460, thence along U.S. Highway 23/460 to the junction of Kentucky Highway 80, thence along Kentucky Highway 80 to the junction of Kentucky Highway 421, thence along Kentucky Highway 421 to Kentucky-Virginia State line, points in Tennessee on and west of a line, beginning at the Kentucky-Tennessee State line, extending along Tennessee Highway 42 to the junction of U.S. Highway 70-S, thence along U.S. Highway 70-S to the junction of Tennessee Highway 56, thence along Tennessee Highway 56 to Tennessee-Alabama State line, points in Alabama on and west of a line beginning at the Tennessee-Alabama State line, extending along U.S. Highway 231/431 to the junction of U.S. Highway 231, thence along U.S. Highway 231 to the junction of Alabama Highway 79, thence along Alabama Highway 79 to junction of U.S. Highway 11, thence along U.S. Highway 11 to the junction of Alabama Highway 5, thence along Alabama Highway 5 to the junction of U.S. Highway 43, thence along U.S. Highway 43 to the junction of Alabama Highway 56, thence along Alabama Highway 56 to the Alabama-Mississippi State line. Gateway to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E194), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in New York to points in Kentucky, Mississippi, Alabama; points in Tennessee on and west of a line from the Virginia-Tennessee State line extending along Tennessee Highway 33 to the junction of Tennessee Highway 31, thence along Tennessee Highway 31 to the junction of U.S. Highway 11W, thence along U.S. Highway 11W to the junction of U.S. Highway 25E, thence along U.S. Highway 25E to the junction of Tennessee Highway 32, thence along Tennessee Highway to the junction of Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. Gateway to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E196), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, the transportation of which, because of their size or weight, require the use of special equipment, between points in New York, on the one hand, and, on the other points in Michigan. Gateways to be eliminated: (1) Points in Pennsylvania. (2) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (4) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E197), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in New Jersey, on the one hand, and, on the other, points in Maine. Gateways to be eliminated: (1) Points in New York within 10 miles of Greenwich, Connecticut; (2) points in Massachusetts on and east of U.S. Highway 5; (3) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E198), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in New York on and south of a line beginning at Lake Ontario and extending along New York Highway 31, thence along New York Highway 31 to junction of New York Highway 96, thence along New York Highway 96 to junction of U.S. Highway 20, thence along U.S. Highway 20 to junction of Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the New York-Connecticut State line extending along Interstate Highway 84 to junction of Connecticut Highway 8, thence along Connecticut Highway 8 to junction of U.S. Highway 6/202, thence along U.S. Highway 6/202 to junction of Interstate Highway 84, thence along Interstate Highway 84 to junction of Interstate Highway 91, thence along Interstate Highway 91 to junction of Connecticut Highway 159, thence along Connecticut Highway 159 to the Connecticut-Massachusetts State line. Gateways to be eliminated: (1) White Plains, New York; (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E199), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in New York on and south of a line beginning at Pennsylvania-New York State line extending along New York Highway 79 to junction of New York Highway 17, thence along New York Highway 17 to junction of New York Highway 97, thence along New York Highway 97 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction of Interstate Highway 87, thence along Interstate Highway 87 to junction of U.S. Highway 1, thence along U.S. Highway 1 to the New York-Con-

necticut State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the New York-Connecticut State line extending along Connecticut Highway 15 to junction of Interstate Highway 91, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line. Gateways to be eliminated: (1) White Plains, New York; (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E260), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Po. 15146. Applicant's representative: William J. Rarison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails rods roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Vermont on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Connecticut-Massachusetts State line extending along Connecticut-Rhode Island State line. Gateways to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC 60014 (Sub-No. E261), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rarison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling pipe, post, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Vermont on the one hand, and, on the other, points in Rhode Island. Gateways to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E262), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire and coils*, between points in New Hampshire on the one hand, and, on the other, points in Rhode Island. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC 60014 (Sub-No. E263), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on and south of a line beginning at New Hampshire-Maine state line extending along New Hampshire Highway 101, thence along New Hampshire Highway 101 to junction of New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction of New Hampshire Highway 124, thence along New Hampshire Highway 124 to New Hampshire-Massachusetts state line, on the one hand, and, on the other points in Vermont on and west of a line beginning at New York-Vermont state line extending along Vermont Highway 22A, thence along Vermont Highway 22A to junction of U.S. Highway 7, thence along U.S. Highway 7 to junction of Vermont Highway 15, thence along Vermont Highway 15 to junction of Vermont Highway 100C, thence along Vermont Highway 100C to Vermont Highway 100, thence along Vermont Highway 100 to U.S. Highway 5, thence along U.S. Highway 5 to Vermont-Canada International boundary; and those points in Vermont on and south of a line beginning at New York-Vermont state line extending along Vermont Highway 149, thence along Vermont Highway 149 to junction of Vermont Highway 30, thence along Vermont Highway 30 to New Hampshire-Vermont state line.

MC 60014 (Sub-No. E264), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rarison, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel Angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on the one hand, and, on the other, points in Connecticut south and east of a line beginning at the New York-Connecticut state line extending along Interstate Highway 95, thence along Interstate Highway 95 to junction of U.S. Highway 1, thence along U.S. Highway 1 to junction of Connecticut Highway 52, thence along Connecticut Highway 52 to the Connecticut-Massachusetts state line. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC 60014 (Sub-No. E265), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on and east of a line beginning at the Massachusetts-New Hampshire state line extending along New Hampshire Highway 13, thence along New Hampshire Highway 13 to junction of New Hampshire Highway 77, thence along New Hampshire Highway 77 to junction of New Hampshire Highway 114, thence along New Hampshire Highway 114 to junction of U.S. Highway 202, thence along U.S. Highway 202 to junction of Interstate Highway 93, thence along Interstate Highway 93 to the Vermont-New Hampshire state line, on the one hand, and, on the other points in Connecticut. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), then over Massachusetts Highway 56 to junction

Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC-60014 (Sub-No. E266), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, pest, rails, rods, roof belt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on and east of a line beginning at the Massachusetts-New Hampshire state line extending along New Hampshire Highway 13, thence along New Hampshire Highway 13 to junction of New Hampshire Highway 77, thence along New Hampshire Highway 77 to junction New Hampshire Highway 114 to junction of U.S. Highway 202, thence along U.S. Highway 202 to junction of Interstate Highway 93, thence along Interstate Highway 93 to the Vermont-New Hampshire state line, on the one hand, and, on the other points in Massachusetts. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.

MC 60014 (Sub-No. 267), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representive: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire coils*, between points in New Hampshire on the one hand, and, on the other points in Pennsylvania north and west of a line beginning at the Ohio-Pennsylvania Highway 58, thence along Pennsylvania Highway 58 to junction of U.S. Highway 322, thence along U.S. Highway 322 to junction of Pennsylvania Highway 77, thence along Pennsylvania Highway 77 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction of Pennsylvania Highway 27, thence along Pennsylvania Highway 27 to Pennsylvania-New York state line and those points in Pennsylvania north and east of a line beginning at New York-Pennsylvania state line extending along Interstate Highway 84, thence along Interstate Highway 84 to junction of Pennsylvania Highway 6, thence along Pennsylvania Highway 6 to junction of Pennsylvania Highway 590, thence along Pennsylvania Highway 590 to junction of Pennsylvania Highway 435, thence along Pennsylvania Highway 435 to junction of U.S. Highway 11, thence along U.S. Highway 11 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania-New York state line. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.); points in (2) New York.

No. MC 60014 (Sub-No. E268), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in Pennsylvania to points in Kentucky, Alabama, Mississippi, points in Tennessee on and west of a line beginning at the Tennessee-Virginia state line extending along Tennessee Highway 63 to the junction of U.S. Highway 25W, thence along U.S. Highway 25W to the junction of Tennessee Highway 95, thence along Tennessee Highway 95 to the junction of U.S. Highway 11, thence along U.S. Highway 11 to the junction of Tennessee Highway 30, thence along Tennessee Highway 30 to the junction of U.S. Highway 411, thence along U.S. Highway 411 to the Tennessee-Georgia state line. Gateway to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E269), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, pests, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment between points in Pennsylvania on the one hand, and, on the other points and places in Massachusetts on and east of a line beginning at the Connecticut-Massachusetts state line, extending along U.S. Highway 5 to the junction of National Interstate Highway 90 to the junction of Massachusetts Highway 32, thence along Massachusetts Highway 32 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-New Hampshire state line. Gateways to be eliminated: (1) New York. (2) Greenwich, Connecticut. (3) Connecticut.

No. MC 60014 (Sub-No. E280), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Virginia on and west of a line beginning at the North Carolina-Virginia State line extending along U.S. Highway 220, thence along U.S. Highway 220 to junction of Interstate Highway 64, thence along Interstate Highway 64 to junction of U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-West Virginia State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along U.S. Highway 202, thence along U.S. Highway 202 to junction of U.S. Highway 6/202, thence along U.S. Highway 6/202 to junction of Connecticut Highway 69, thence along Connecticut Highway 69 to junction of Connecticut Highway 72, thence along Connecticut Highway 72, to junction of Interstate Highway 84 thence along Interstate Highway 84 to junction of Connecticut Highway 66, thence along Connecticut Highway 66 to junction of Connecticut Highway 10, thence along Connecticut Highway 10 to junction of Connecticut Highway 150, thence along Connecticut Highway 150 to junction of Connecticut Highway 22, thence along Connecticut Highway 22 to U.S. Highway 1, thence along U.S. Highway 1 to the Atlantic Ocean. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.)

No. MC 60014 (Sub-No. E281), filed August 28, 1976. Applicant: AERO

TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Pennsylvania, on the one hand, and, on the other, points in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line extending along Rhode Island Highway 138, thence along Rhode Island Highway 138 to junction of Rhode Island Highway 108, thence along Rhode Island Highway 108 to the Rhode Island Sound. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E282), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Pennsylvania, on the one hand, and, on the other, points in New Hampshire. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E283), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line extending along Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to junction of Pennsylvania Highway 349, thence along Pennsylvania Highway 349 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction of Pennsylvania Highway 949, thence along Pennsylvania Highway 949 to junction of Interstate Highway 80, thence along Interstate Highway 80 to junction of U.S. Highway 322, thence along U.S. Highway 322 to junction of Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to junction of Pennsylvania Highway 839, thence along Pennsylvania Highway 839 to junction of Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction of Pennsylvania Highway 954, thence along Pennsylvania Highway 954 to junction of Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction of Pennsylvania Highway 160, thence along Pennsylvania Highway 160 to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 32, thence along Connecticut Highway 32 to junction of Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line.

Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts 56 to junction Massachusetts Highway 12 (near Rochadle, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E284), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strips, structurals, tank parts, tubing, and wire in coils*, between points in New Jersey, on the one hand, and, on the other, points in New Hampsire on and east of a line beginning at the Vermont-New Hampshire State line extending along New Hampshire Highway 12/103, thence along 12/103 to junction of New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction of New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction of New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line; and points in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line extending along Interstate Highway 6, thence along Interstate Highway 6 to the Rhode Island-Massachusetts State line. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence over along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E285), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strips, structurals, tank parts, tubing, and wire in coils*, between points in New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line extending along New Jersey Highway 33, thence along New Jersey Highway 33 to junction of U.S. Highway 130, thence along U.S. Highway 130 to junction of New Jersey Highway 33, thence along New Jersey Highway 33 to the Atlantic Ocean, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 12, thence along Connecticut Highway 12 to junction of U.S. Highway 6, thence along U.S. Highway 6 to the Connecticut-Rhode Island State line. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massa-

chusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E286), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Maryland and the District of Columbia, on the one hand, and, on the other, points in New Hampshire and those in Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts - Connecticut State line; points in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line extending along Rhode Island Highway 165, thence along Rhode Island Highway 165 to junction of Rhode Island Highway 102 thence along Rhode Island Highway 102 to junction of U.S. Highway 1A, thence along U.S. Highway 1A to the Atlantic Ocean. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E287), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Maryland and the District of Columbia, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 32, thence along Connecticut Highway 32 to junction of Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E288), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Delaware, on the one hand, and, on the other, points in New Hampshire and Rhode Island. Gateways to be eliminated: (1) Points in New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E289), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Delaware, on the one hand, and, on the other, points in Connecticut north and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 12, thence along Connecticut Highway 12 to junction of U.S. Highway 6, thence along U.S. Highway 6 to the Connecticut-Rhode Island State line. Gateways to be eliminated: (1) Points in New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 102003 (Sub-No. E1), filed May 19, 1974. Applicant: MORRIS VAN LINES, INC., P.O. Box 353, Anderson, South Carolina 29622. Applicant's representative: O. V. Morris, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) (a) between those points in Georgia on and south of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line and on and north of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 84 to junction Georgia Highway 311, thence along Georgia Highway 311 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Georgia Highway 49, thence along Georgia Highway 49 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction U.S. Highway 278, thence along U.S. Highway 278 to junction Georgia Highway 44, thence along Georgia Highway 44 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in North Carolina on and east of U.S. Highway 25. (b) between points in Georgia on and north of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line, on the one hand, and, on the other, points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending along North Carolina Highway 16 to junction U.S. Highway 321, thence along U.S. Highway 321 to the North Carolina-South Carolina State line. (c) between points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along Georgia Highway 38 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 301, thence along

U.S. Highway 301 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction Georgia Highway 311, thence along Georgia Highway 311 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line; on the one hand, and, on the other, points in North Carolina on, west, and north of a line beginning at the North Carolina-South Carolina State line and extending along Interstate Highway 85 to junction North Carolina Highway 49, thence along North Carolina Highway 49 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean.

(d) Between points in Georgia on, south, east, and north of a line beginning at the Georgia-South Carolina State line and extending west along U.S. Highway 378 to junction Georgia Highway 44, thence along Georgia Highway 44 to junction U.S. Highway 441, thence south along U.S. Highway 441 to junction Georgia Highway 49, thence along Georgia Highway 49 to junction Interstate Highway 75, thence south along Interstate Highway 75 to junction U.S. Highway 280, thence east along U.S. Highway 280 to junction U.S. Highway 301, thence northeast along U.S. Highway 301 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in North Carolina on, west, and north of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 321 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Interstate Highway 85, thence along Interstate Highway 85 to the North Carolina-Virginia State line. (2) (a) between points in Georgia on and north of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line, on the one hand, and, on the other, points in Virginia on and east of Interstate Highway 77. (b) between those points in Georgia on and south of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line and on and north of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 441 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in Virginia. (3) between points in Florida, on the one hand, and, on the other, points in Virginia.

(4) (a) between points in Georgia on and north of a line beginning at the Georgia-North Carolina State line and extending along U.S. Highway 19 to junction Georgia Highway 52, thence along Georgia Highway 52 to junction Georgia Highway 98, thence along Georgia Highway 98 to junction Georgia Highway 72, thence along Georgia Highway 72 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in Florida on and east of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 19 to junction Florida Highway 257, thence along Florida Highway 257 to junction Florida Highway 14, thence along Florida Highway 14 to the Gulf of Mexico. (b) between points in Georgia bounded by a line beginning at Comer and extending west on Georgia Highway 72 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction Georgia Highway 52, thence southeast along Georgia Highway 52 to junction Georgia Highway 98, thence along Georgia Highway 98 to the points of beginning, on the one hand, and, on the other, points in Florida on and south of Interstate Highway 4. (5) (a) between points in Florida on and south of a line beginning at Florida-Georgia State line and extending along U.S. Highway 301 to junction Florida Highway 24, thence along Florida Highway 24 to the Gulf of Mexico, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Georgia-Tennessee State line and extending along Interstate Highway 75 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Tennessee-Kentucky State line. (b) between those points in Florida on and east of U.S. Highway 319 and on and west of a line beginning at the Florida-Georgia State line and extending along U.S. Highway 301 to junction Florida Highway 24, thence along Florida Highway 24 to the Gulf of Mexico, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 129 to junction U.S. Highway 441, thence along U.S. Highway 441 to the Tennessee-Kentucky State line.

(6) (a) between points in Florida on and east of U.S. Highway 319, on the one hand, and, on the other, points in North Carolina on and west of Interstate Highway 85. (b) between points in Florida on and west of U.S. Highway 319, on the one hand, and, on the other, points in North Carolina on and east of Interstate Highway 85. (7) (a) between points in Tennessee on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 11 to junction Tennessee Highway 68, thence along Tennessee Highway 68 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Tennessee-Kentucky State line, on the one hand, and, on the other, points in North Carolina and east of Interstate Highway 85. (b) between those points in Tennessee on and west of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 441 to the Tennessee-Kentucky State line and on and east of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 27 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Tennessee Highway 95, thence along Tennessee Highway 95 to junction U.S. Highway 411, thence along U.S. Highway 411 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Tennessee-North Carolina State line, on the one hand, and, on the other, points in North Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 401 to junction North Carolina Highway 24, thence along North Carolina Highway 24 to junction U.S. Highway 258, thence along U.S. Highway 258 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 17, thence along U.S. Highway 17 to the North Carolina-Virginia State line.

(8) (a) Between points in Georgia bounded by a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 29 to junction Georgia Highway 77, thence along Georgia Highway 77 to junction Georgia Highway 79, thence along Georgia Highway 79 to junction Georgia Highway 47, thence along Georgia Highway 47 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Georgia-Florida State line, thence east along Georgia-Florida State line to the Atlantic Ocean, thence north along the Georgia-South Carolina State line to the point of beginning, on the one hand, and, on the other, points in Tennessee. (b) between points in Georgia on and east of a line beginning at the Georgia-South Carolina State line and extending along Interstate Highway 85 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction Georgia Highway 91, thence along Georgia Highway 91 to junction Georgia Highway 37, thence along Georgia Highway 37 to junction Georgia Highway 97, thence along Georgia Highway 97 to the Georgia-Florida State line, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 129 to junction U.S. Highway 441, thence along U.S. Highway 441 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of Anderson, S.C.

No. MC 105045 (Sub-No. E180) (Correction), filed March 24, 1976, published in the FEDERAL REGISTER issue of April 21, 1977, and republished, as corrected, this issue. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of

special equipment, except machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up pipe in connection with main or trunk pipelines, from points in Georgia to points in Idaho, North Dakota, South Dakota, Montana, Washington, Oregon, Wyoming, and Utah. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

NOTE.—The purpose of this republication is to add the destination state of Idaho, previously omitted.

No. MC 112070 (Sub-No. E26), filed June 4, 1974. Applicant: GRAY MOVING STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) from points in Pennsylvania to points in Arizona, California, Colorado, Idaho, Nebraska, Nevada, New Mexico, Oklahoma, Texas, and Utah. (2) (A) From points in Pennsylvania, to points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line and extending south along U.S. Highway 71, to junction U.S. Highway 70, thence west along U.S. Highway 70 to the Arkansas-Oklahoma State line. (B) From points in Pennsylvania on and east and north of a line beginning at the Pennsylvania-New York State line, and extending south along U.S. Highway 11 to junction Pennsylvania Highway 492, thence east along Pennsylvania Highway 492 to junction Pennsylvania Highway 376, thence east along Pennsylvania Highway 376 to the Pennsylvania-New York State line, to points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line, and extending south along U.S. Highway 65 to junction Arkansas Highway 7, to junction Arkansas Highway 27, thence south along Arkansas Highway 27 to junction Arkansas Highway 14, thence south along Arkansas Highway 14 to junction Arkansas Highway 29, thence south along Arkansas Highway 29 to the Arkansas-Louisiana State line. (C) From points in Pennsylvania to Ft. Smith, Ark. (3) From points in Pennsylvania to points in Kansas. (4) From points in Pennsylvania, to points in Missouri on and west of a line beginning at the Missouri-Iowa State line, and extending south along U.S. Highway 65 to the Missouri-Arkansas State line. (5) From points in Pennsylvania to points in South Dakota on and west of a line beginning at the South-Dakota-North Dakota State line, and extending south along U.S. Highway 85 to junction South Dakota Highway 79, thence south along South Dakota Highway 79 to junction U.S. Highway 385, thence south along U.S. Highway 385 to the South Dakota-Nebraska State line. (6) (A) From points in Pennsylvania to points in Wyoming on and west and south of a line beginning at the Nebraska-Wyoming State line and extending west along U.S. Highway 20 to junction U.S. Highway 87, thence north along U.S. Highway 87 to the Wyoming-Montana State line. (B) From points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line, and extending south along Pennsylvania Highway 29, to junction Pennsylvania Highway 309, thence south along Pennsylvania Highway 309 to the Atlantic Ocean, to points in Wyoming. The purpose of this filing is to eliminate the gateways of: Sec. (1), (2), (4), (6), points in Ohio and Kansas; Sec. (3) points in Ohio, and Kansas City, Mo.; Sec. (5) points in Ohio, Kansas, and Kansas City, Mo.

No MC 112070 (Sub-No. E117), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Iowa on and north and west of a line beginning at the Iowa-Missouri state line, and extending along Interstate Highway 35 to junction Interstate Highway 80, to junction U.S. Highway 65, to junction Iowa Highway 330, to junction Iowa Highway 14, to junction Iowa Highway 57, to junction U.S. Highway 20, to the Iowa-Illinois state line, on the one hand, and, on the other, Norfolk, Va., and points in the Isle of Wight and Nansemond Counties, Va.; (B) between points in Iowa, on the one hand, and, on the other, points in Delaware, Massachusetts, and Wicomico, Somerset, and Worcester Counties, Md.; (C) between points in Iowa on and west of a line beginning at the Iowa-Missouri state line and extending along U.S. Highway 59 to the Iowa-Minnesota state line, on the one hand, and, on the other, points in Maryland on and east of a line beginning at the Maryland-Pennsylvania state line, and extending along Interstate Highway 83 to Baltimore, Md., and points on and east of the Chesapeake Bay to the Maryland-Delaware state line; (D) between points in Iowa on and west of a line beginning at the Iowa-Minnesota state line, and extending along U.S. Highway 75, thence along U.S. Highway 75 to the City of River Sioux, on the Missouri River, on the one hand, and, on the other, points in Maryland on and east of a line beginning at the Maryland-Pennsylvania state line and extending along Interstate Highway 81, to the Maryland-West Virginia state line.

(E) Between points in Iowa on and north and west of a line beginning at the Iowa-Minnesota state line and extending along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to the Iowa-South Dakota state line, on the one hand, and, on the other, points in Virginia on and east of a line beginning at the Virginia-West Virginia state line, and extending along Interstate Highway 81 to junction Interstate Highway 64, to junction Virginia Highway 6, to junction U.S. Highway 29, thence along U.S. Highway 29 to the Virginia-North Carolina state line; (F) between points in Iowa on and west of a line beginning at the Iowa-Minnesota state line and extending along U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri state line, on the one hand, and, on the other, points in Virginia on and east of a line beginning at the Maryland-Virginia state line, and extending along Interstate Highway 95, thence along Interstate Highway 95 to the Virginia-North Carolina state line; (G) between points in Iowa on and west of a line beginning at the Iowa-Wisconsin state line and extending along U.S. Highway 18, to junction Iowa Highway 13, to junction Iowa Highway 187, to junction U.S. Highway 20, to junction U.S. Highway 63, to junction U.S. Highway 30, to junction Iowa Highway 330, to junction U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Missouri state line, on the one hand, and, on the other, points in Washington, D.C.; (H) between points in Lyon, Sioux, and Plymouth Counties, Iowa, on the one hand, and, on the other, points in West Virginia on and east of a line beginning at the Maryland-West Virginia state line, and extending along U.S. Highway 522, thence along U.S. Highway 522 to the West Virginia-Virginia state line. The purpose of this filing is to eliminate the gateways of points in Illinois, Pennsylvania, and Easton, Pa., and points within 15 miles thereof.

No. MC 112070 (Sub-No. E118), filed June 4, 1976. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in Maryland on and east of a line beginning at the Pennsylvania-Maryland state line, and extending along Interstate Highway 70, to the Maryland-Virginia state line; (B) between points in the Upper Peninsula of Michigan, on and west of a line beginning at Lake Superior and extending along U.S. Highway 41 to Little Bay De Noc, on the one hand, and, on the other, points in Delaware; (C) between points in the Upper Peninsula of Michigan on and west of a line beginning at Lake Superior and extending along U.S. Highway 41 to Little Bay De Noc, on the one hand, and, on the other, Washington, D.C.; (D) between points in Keweenaw, Ontonagon, Houghton, Baraga, Gogebic, and Iron Counties, Mich., on the one hand, and, on the other, Norfolk, Va. The purpose of this filing is to eliminate the gate-

ways of points in Illinois, Pennsylvania, and Easton, Pa., and points within 15 miles thereof.

No. MC 112070 (Sub-No. E119), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Virginia on and east of a line beginning at the Maryland-Virginia state line, and extending along Interstate Highway 95 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in Minnesota; (B) between points in Virginia on and east of a line beginning at the Maryland-Virginia state line, and extending along Interstate Highway 81 to junction Interstate Highway 64, to junction Virginia Highway 6, to junction U.S. Highway 29, thence along U.S. Highway 29 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in Kittson County, Minn. The purpose of this filing is to eliminate the gateways of points in Illinois, Pennsylvania, and Easton, Pa., and points within 15 miles thereof.

No. MC 112070 (Sub-No. E121), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Household goods*, as defined by the Commission, (A) between points in Norfolk, Nansemond, and Isle of Wight Counties, Va., on the one hand, and, on the other, points in Kansas; (B) between points in Virginia on and east of a line beginning at the Virginia-Maryland state line, and extending along Interstate Highway 95 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in South Dakota; (c) between points in Nansemond and Isle of Wight Counties, Va., on the one hand, and, on the other, points in Illinois on and north of a line beginning at the Illinois-Indiana state line and extending along Interstate Highway 74 to junction U.S. Highway 24, thence along U.S. Highway 24, to the Illinois-Missouri state line; (D) between points in Virginia on and east of a line beginning at the Virginia-Maryland state line, and extending along Interstate Highway 95 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in Wyoming; (E) between points in Virginia on and east of a line beginning at the Virginia-Maryland state line and extending along Interstate Highway 95 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of points in Illinois, Missouri, Pennsylvania, and Easton, Pa. and points within 15 miles thereof.

No. MC 112070 (Sub-No. E122), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Maryland on and east of a line beginning at the Maryland-Pennsylvania state line, and extending along U.S. Highway 83 to Baltimore, Md., and all points east of the Chesapeake Bay, on the one hand, and, on the other, points in Minnesota, those points in Wisconsin on and west of a line beginning at Lake Superior, and extending along U.S. Highway 53 to junction U.S. Highway 63, to junction U.S. Highway 12, thence along U.S. Highway 12, to the Wisconsin-Minnesota state line, those points in Iowa on and west of a line beginning at the Minnesota-Iowa state line, and extending along U.S. Highway 59 to the Iowa-Missouri state line, those points in Missouri on and west of a line beginning at the Iowa-Missouri state line, and extending along U.S. Highway 71, thence along U.S. Highway 71 to the Missouri-Arkansas state line; (B) between points in Wicomico, Somerset, and Worcester Counties, Md., on the one hand, and, on the other, points in Iowa; (C) between points in Wicomico, Somerset, and Worcester Counties, Md., on the one hand, and, on the other, points in Illinois and Missouri; (D) between points in Maryland, on the one hand, and, on the other, Dubuque, Rock Island, and Quincy, Iowa; (E) between points in Maryland, on and east of a line beginning at the Maryland-Pennsylvania state line, and extending along Interstate Highway 70 to Washington, D.C., on the one hand, and, on the other, points in Kansas, Nebraska, and South Dakota; (F) between points in Maryland, on and east of a line beginning at the Pennsylvania-Maryland state line and extending along Interstate Highway 70 to Washington, D.C., on the one hand, and, on the other, points in Colorado and Wyoming;

(G) Between points in Maryland, on the one hand, and, on the other, points in South Dakota, Nebraska, except the counties of Richardson, Pawnee, Johnson, Nemaha, Otoe, Cass, and those points in Kansas on and west of a line beginning at the Kansas-Nebraska state line, and extending along U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Oklahoma state line; (H) between points in Maryland, on the one hand, and, on the other, points in Minnesota on and west of a line beginning at the Minnesota-Wisconsin state line, and extending along Interstate Highway 35 to junction U.S. Highway 61, to junction Minnesota Highway 23, to junction Minnesota Highway 4, thence along Minnesota Highway 4 to the Minnesota-Iowa state line, those points in Iowa on and west of a line beginning at the Minnesota-Iowa state line and extending along Iowa Highway 60, thence along Iowa Highway 60 to the Iowa-Nebraska state line. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points within 15 miles thereof and points in Illinois.

No. MC 112070 (Sub-No. E123), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Minnesota, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points within 15 miles thereof, points in Illinois and Missouri.

No. MC 112070 (Sub-No. E124), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Washington, D.C., on the one hand, and, on the other, points in Colorado, Kansas, Minnesota, Nebraska, South Dakota, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points in Pennsylvania within 15 miles thereof, and points in Illinois and Missouri.

No. MC 112070 (Sub-No. E125), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Washington, D.C., on the one hand, and, on the other, points in Missouri on and east of a line beginning at the Iowa-Missouri state line and extending along U.S. Highway 65 to the Missouri-Arkansas state line; (B) between points in Washington, D.C., on the one hand, and, on the other, points in Iowa on and east of a line beginning at the Minnesota-Iowa state line and extending along U.S. Highway 65 to the Iowa-Missouri state line. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points in Pennsylvania within 15 miles thereof, and points in Illinois and Missouri.

No. MC 112304 (Sub-No. E89), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 to junction U.S. Highway Alternate

41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E90), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line, and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Vermont. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E91), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidate Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E92), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E93), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E96), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Kentucky on, and west of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 and U.S. Highway Alternate 41 to the Kentucky-Tennessee State line, to points in Virginia on, and east of a line beginning at the Virginia-District of Columbia State line and extending along U.S. Highway 29 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E97), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in North Carolina. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E98), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line, and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in South Carolina. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E99), filed Octobr 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Georgia. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E100), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*,

which by reason of size, or weight, require the use of special equipment, from points in Illinois on, north, and east of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Florida. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E101), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Alabama. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E102), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Virginia on and west of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 220 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E103), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, and east of a line bounded by a line beginning at the Mississippi River on Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Maine. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E104), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded by a line beginning at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E105), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING Co., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded by a line beginning at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Vermont. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E106), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E107), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E108), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Aluminum and aluminum articles, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 bypass to the Mississippi River on the Illinois-Missouri State line, to points in Connecticut. The purpose of ths filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 114868 (Sub-No. 10), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household Goods,* as defined by the Commission, between points in Berkeley, Hampshire, Morgan, and Jefferson Counties, W. Va., on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 123407 (Sub-No. E293) (Correction), filed March 30, 1976, published in the FEDERAL REGISTER issue of April 6, 1977, and republished, as corrected, this issue. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles* used as building materials, from Lee County, Ill., to points in North Carolina, and South Carolina, and to points in Georgia in and east of Rabun, Habersham, Stephens, Banks, Madison, Oglethorpe, Taliaferro, Warren, Glascock, Jefferson, Emanuel, Treutlen, Wheeler, Telfair, Ben Hill, Turner, Webster, Mitchell, Towns and Decatur Counties, Ga. The purpose of this filing is to eliminate the gateways at Warren, Ill. and New Castle, Ind.

NOTE.—The purpose of this correction is to add the county of Towns to the destination point, previously omitted.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14175 Filed 5-17-77;8:45 am]

PIPELINES

Tentative Valuations

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

INITIAL REPORTS

Valuation Docket No.

1440 American Petrofina Pipe Line Co., P.O. Box 2159, Dallas, TX 75221.

1439 Amdel Pipeline, Inc., P.O. Box 2159, Dallas, TX 75221.

On or before June 17, 1977, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in the valuation of any carrier named above may, pursuant to rule 72 of the Commission's "General Rules of Practice" (49 CFR 1100.72), file an original and three copies of a petition for leave to intervene and, if granted, thus to come within the category of "additional parties as the Commission may prescribe" under section 19a(h) of the act, thereby enabling the party to file a protest. Blanket petition to intervene in all or several of these proceedings is not permissible. Individual petitions to intervene must be filed with respect to each valuation in which participation is sought. It is also required that a copy of the petition to intervene be served at the address shown above upon the carrier whose property is the subject of the tentative valuation and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a petition; they are entitled to file protest as a matter of right under the statute.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14207 Filed 5-17-77;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).

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1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 11 a.m., May 12, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Personnel Management at the CAB, including discussion of a recent Civil Service Commission Report on this subject.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Civil Service Commission has mandated an initial response to its report by May 19, 1977. The following Members have voted that agency business requires that the Board meet on this matter at the earliest possible time and that no earlier notice of the meeting was possible.

Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member R. Tenney Johnson

The following Members have voted that the meeting will be closed to public observation:

Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member R. Tenney Johnson

EXPLANATION OF THE CLOSING

This meeting will concern the internal personnel practices of the Civil Aeronautics Board, particularly those which are the subject of a Civil Service Commission report entitled "Review of Personnel Management at the Headquarters, Civil Aeronautics Board, April 1977," prepared by the U.S. Civil Service Commission Bureau of Personnel Management Evaluation. The Civil Service Commission states that "This report has been prepared for the use of agency management and staff personnel. Agencies should not release Commission evaluation reports or excepts from reports to the public. Any questions regarding release of information in this report should be referred to the Commission office where it originated." Accordingly, the Board finds that public observation of this meeting would involve matters which relate solely to the internal personnel rules and practices of an agency within the meaning of the exemption provided under 5 U.S.C. 552b(c)(2) and 14 CFR 310b.5(2) and that the meeting will be closed to public observation.

PERSONS ATTENDING

Board members:
Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minettti
Member R. Tenney Johnson
Assistants to Board Members:
Mr. John Golden
Mr. Elias C. Rodriquez
Mr. James L. Casey
Mr. Robert E. Cohn
Office of the Managing Director:
Dr. Norma Maine Loeser
Office of the General Counsel:
Mr. James C. Schultz
Ms. Carol Light
Other:
Alderson Reporting Company
Ms. Kathy Prewitt

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b (c)(2) and 14 CFR 310b.5(2).

JAMES C. SCHULTZ,
General Counsel.

MAY 12, 1977.

[S-427-77 Filed 5-16-77;9:11 am]

2

AGENCY HOLDING THE MEETING: Federal Home Loan Mortgage Corporation.

TIME AND DATE: 10 a.m., May 19, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Late notice of meeting to consider open and closed items.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED:

Open item. Consideration of Status Report on Corporation Move to New FHLBB Building

Closed item. Appointment of Corporate Officer

No. 25, May 1, 1977

RONALD A. SNIDER,
Assistant Secretary.

[S-422-77 Filed 5-13-77;2:41 pm]

3

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 F.R. 24357.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: May 18, 1977, 10 a.m.

CHANGES IN THE MEETING:

Addition of the following item to the closed session:

3. Sea-Land Service, Inc.—Proposed Amendments to Freight All Kinds Items—U.S. Atlantic/Puerto Rico Trade.

[S-428-77 Filed 5-16-77;10:11 am]

4

AGENCY HOLDING THE MEETING: Federal Reserve System.

The previously announced meeting of the Board of Governors of the Federal Reserve System on Wednesday, May 18, 1977, will include an additional item:

The appointment of a Federal Reserve Branch director.

The business of the Board requires that the item be added, and no earlier announcement of the change was possible.

This item will be closed to public observation because the item falls under exemption(s) in the Government in the Sunshine Act (5 U.S.C. § 552(c)).

The previously announced items are:

1. The appointment of a Federal Reserve Bank director.

2. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting in May 4, 1977.

The meeting will be held at 10 a.m. in the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, May 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-423-77 Filed 5-16-77;9:11 am]

5

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Friday, May 20, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held

at the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C., to consider the following items of official Board business:

1. Draft testimony to be presented before the Senate Committee on Banking, Housing and Urban Affairs, regarding S. 71 (a bill to strengthen the supervisory authority of the Federal banking agencies over financial institutions and their affiliates), S. 73 (a bill to prohibit interlocking management and director relationships between depositary institutions), S. 895 (a bill to amend the Federal Deposit Insurance Act), and S. 1433 (the "Depository Institutions Conflict of Interest Act", a bill that proscribes "revolving door" employment practices at the financial regulatory agencies).

2. Computer purchase by the Federal Reserve Board.

3. Personnel assignments within the Board's staff.

4. Positions to be taken on proposed legislation regarding the operation of foreign banks in the U.S.

5. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. § 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202–452–3204.

Board of Governors of the Federal Reserve System, May 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–424–77 Filed 5–16–77;9:11 am]

6

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Monday, May 23, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C., to consider the following items of official Board business:

1. Draft testimony to be presented before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, regarding S. 600, the Regulatory Reform Act of 1977, which sets out a procedure for the submission of regulatory reform proposals by the President according to an eight-year schedule.

2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202–452–3204.

Board of Governors of the Federal Reserve System, May 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–425–77 Filed 5–16–77;9:11 am]

7

AGENCY HOLDING THE MEETING: Indian Claims Commission.

TIME AND DATE: 10:15 a.m., May 25, 1977.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open to the Public.

Docket 29–J, Hannahville [Potawatomi].

Docket 272, Creek.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street, NW., Washington, D.C. 20006. Tel. 202–653–6184.

[S–429–77 Filed 5–16–77;10:11 am]

8

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

TIME AND DATE: 2 p.m., Thursday, May 19, 1977.

PLACE: *Commission's Offices*, 12th and Constitution Avenue, NW., Washington, D.C.

STATUS: Short Notice—Open Special Conference.

MATTERS TO BE CONSIDERED:

Operating Rights—Commodities in Bulk, Draft Notice of General Policy.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Tel. 202–275–7252.

[S–426–77 Filed 5–16–77;9:11 am]

9

AGENCY HOLDING MEETING: United States Parole Commission—National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Friday, May 20, 1977; 1 p.m.

PLACE: Room 338 Federal Home Loan Bank Board Building, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed—Pursuant to 5 U.S.C. 552b(c)(10) and 28 C.F.R. 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 15 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202–724–3094.

[S–430–77 Filed 5–16–77;11:02 am]

federal register

WEDNESDAY, MAY 18, 1977

PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

FEDERAL ENERGY ADMINISTRATION

■

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent To Issue Prohibition Orders to Certain Installations

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent To Issue Prohibition Orders to Certain Installations

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0400	Chesapeake Corp	West Point Mill	8	West Point, Va.
OCU-0989	Continental Forest Industries, a member of the Continental Group, Inc.	Hopewell Mill	3	Hopewell, Va.
OCU-1512	E. I. Dupont de Nemours & Co.	Seaford Plant	3	Seaford, Del.
OCU-1678	Allied Chemical	Hopewell Chemical Plant	12	Hopewell, Va.
OCU-1716	Union Carbide Corp	Institute Plant	12	Institute, W. Va.
OCU-2776	Scott Paper Co	Chester Plant	9	Chester, Pa.
OCU-2839	FMC Corp	Fredericksburg Plant	58	Fredericksburg, Va.
			59	
			60	
			61	
			62	
OCU-2840	Avtex Fibers, Inc	Front Royal Plant	1	Front Royal, Va.
			2	
			3	

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capabiliy and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119 (c) of such Act; or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness, That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued and order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of date, views, and arguments of interested persons will be held beginning at at 9:00 a.m. on June 1, 2 and 3, 1977, at the Federal Building, Conference Room 11B, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Ed Gray, FEA Region III, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, (215) 597-3607. The request should be received before 4:30 p.m., Thursday, May 26, 1977. The request should describe the person's interest in the issue(s) involved; if appropirate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 31, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Ed Gray, Federal Energy Administration, Room 1001 1421 Cherry Street, Philadelphia, Pennsylvania

19102, before 4:30 p.m., Monday, May 31, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 27, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designed to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and the FEA Regional Office, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or date considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 1500 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E.—8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. *Determination of candidate universe*

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effects of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel saving ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or

installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. *Site specific analysis.*

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);

b. Unit capacity;

c. Fuel consumption for 1975;

d. The last year coal was burned at the installation;

e. Costs of converting to coal, including pollution control equipment costs, if any (respondent's and FEA's estimates);

f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and

g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);

b. The utilization factor of the MFBI was less than 20 percent;

c. Space required for coal use at the installation was inadequate or unvailable;

d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;

e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} Btu's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential; one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of 1) and 2) is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calcuated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NODC by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent Btu basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU Prohibition Order: _____ Installation), Washington, D.C. 20461 (202) 566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C. May 9 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0400	Chesapeake Corp	West Point Mill	8	West Point, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Chesapeake Corporation shall be referred to as the "owner" and as "Chesapeake". West Point Mill Unit 8 shall be referred to as the "MFBI" and as "West Point 8".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, West Point 8 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Chesapeake, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12-14, (Form FEA C-602-S-0), filed on May 12, 1975, indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based on information Chesapeake filed with FEA dated July 21, 1976, and other information available to FEA, the following plant equipment and facilities at West Point 8 would have to be acquired or refurbished in order for the MFBI to burn coal as its primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Feeders.
6. Combustors.
7. Soot blowers.
8. Instrumentation and controls.
9. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, West Point 8 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at West Point 8 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973-1975, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the fatcs and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at West Point 8 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at West Point 8 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1a.-c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of West Point 8 will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of West Point 8 is reasonable.

As a result of conversion, Chesapeake will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boiler after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boiler should result.

The use of coal at West Point 8 will result in a substantial annual savings of barrels of oil that otherwise would be used as boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at West Point 8 are totally offset by the current fuel cost differential between oil and coal burning at West Point 8, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by West Point 8 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Order, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Chesapeake. FEA related these additional capital investment costs to the total capitalization of Chesapeake and the remaining useful life after conversion of West Point 8.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Chesapeake to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Chesapeake MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Chesapeake's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to West Point 8 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental

protection requirements, FEA proposes to conclude that a Prohibition Order to West Point 8 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this MFBI during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report").

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler of the type used at West Point 8 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp (° F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	120

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to this MFBI (in a probable regional supply/demand relationship related to the location of the MFBI) from BOM Districts 1 through 6 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	5,771
1979	11,338
1980	14,018
1981	16,505
1982	17,425
1983	18,478
1984	22,504

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.c., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 6 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	2,090
1979	4,268
1980	6,504
1981	7,369
1982	17,258
1983	19,298
1984	19,298

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 6 with a 1.41–1.81 percent sulfur content (which includes the 1.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 1.41-1.8*
1978	1,016
1979	3,045
1980	4,465
1981	5,222

Year:	Demand (thousand tons) percent sulfur 1.41-1.8
1982	5,318
1983	5,318
1984	5,318

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 1 through 6 uncommitted coal production that meets the requirements of West Point 8 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 1 through 6. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for West Point 8 would probably come from BOM District 2 as the primary supply area and from BOM District 7 as the alternate supply area. While these supply regions are the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for West Point 8 is to originate coal near Rockwood, Pennsylvania in BOM District 2 on the Baltimore and Ohio (Chessie System) which would move it to Alexandria, Virginia. The Richmond, Frederick and Potomac (RF&P) would move it to Richmond, Virginia where the Southern Railway would pick it up for delivery to West Point 8. The total rail distance is about 360 miles.

The alternate route from the primary supply area originates coal in BOM District 2 on Consolidated Railroad Corporation (ConRail). ConRail would move the coal via Harrisburg, Pennsylvania, and Baltimore, Maryland to Washington, D.C. The RF&P would then move the coal to Richmond, Virginia where the Southern Railway would pick it up for delivery to West Point 8. The total rail distance is about 460 miles.

An alternate route from the alternate supply area would originate coal in BOM District 7 in the area of Radford, Virginia on the Norfolk and Western (N&W).

N&W would move the coal to Burkeville, Virginia where the Southern Railway would pick it up for delivery to West Point 8. The total rail distance is about 255 miles.

3. *Originating trunk carrier.* The Chessie System, the originating carrier of coal for West Point 8, has approximately 75,000 hopper cars in service with plans to add 5,000 more in the near future. Using an average number of 20 deliveries per year per 77-ton car, the Chessie may need as many as 125 additional cars to handle the increased demand from West Point 8. This estimated assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. Chessie's capacity to build new hopper cars in its own shops exceeds 2,500 per year, and it anticipates no significant constraints in adding adequate capacity for all foreseeable demands.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive order under Section 2(a) of ESECA.

The Chessie indicated that transportation facilities at mine sites within BOM District 2 served by the Chessie are in good conditions and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Designation carrier and MFBI facilities.* The Southern Railway provides freight service to West Point 8. Chesapeake reports that coal was burned at West Point 8 until 1968 but that some modernization of their coal receiving and storage facilities would be desirable. It is expected that these repairs can be accomplished prior to the effective date for coal burning. There are no other obstacles to the delivery of coal to West Point 8.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to West Point 8 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0089	Continental Forest Industries, a member of the Continental Group, Inc.	Hopewell Mill	2 3	Hopewell, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Continental Forest Industries, A Member of The Continental Group, Inc., shall be referred to as the "owner" and as "Continental". Hopewell Mill Units 2 and 3 shall be referred to as the "MFBI's" and as "Hopewell 2 and 3".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Hopewell 2 and 3 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Continental, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C-602-S-0) filed on May 20, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Continental filed with FEA dated September 30, 1976, and other information available to FEA, the following plant equipment and facilities at Hopewell 2 and 3 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Feeders.
6. Burners.
7. Ash handling and loading equipment.

C. FEA proposes to find that on June 22, 1974, Hopewell 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Hopewell 2 and 3 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Hopewell 2 and 3 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner, and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Hopewell 2 and 3 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Hopewell 2 and 3, will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Hopewell 2 and 3 is reasonable.

As a result of conversion, Continental will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Hopewell 2 and 3 will result in a substantial annual savings of barrels of oil savings that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Hopewell 2 and 3 are totally offset by the current fuel cost differential between oil and coal burning at Hopewell 2 and 3 and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Hopewell 2 and 3 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to MFBI's owned by Continental. FEA related these additional capital investment costs to the total capitalization of Continental and the remaining useful life after conversion of Hopewell 2 and 3.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Continental to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Continental MFBI's.

However, due to the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Continental's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Hopewell 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Hopewell 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production Potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	390.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not

respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Hopewell 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.8

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1980 and thereafter	160

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristics.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41-2.2 percent sulfur content (which includes the 1.8 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a), of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur 1.41 to 2.2
1978	238
1979	1,042
1980	1,918
1980	1,918
1981	1,018
1982	1,918
1983	1,918
1984	1,918

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Hopewell 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond., School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Hopewell 2 and 3 would probably come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available source able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Hopewell 2 and 3 is to originate coal near Andover in Southwestern Virginia. BOM District 8 on the Norfolk and Western (N&W) which would haul it via Lynchburg and Petersburg, Virginia, to Hopewell 2 and 3. The total rail distance is approximately 390 miles.

The alternate route from the primary supply area originates coal on the Southern Railway which would haul coal from BOM District 8 to Bristol, Tennessee. The N&W would then move it via Roanoke to Alberta, Virginia, where the Seaboard Coast Line (SCL) would pick up the coal for delivery to Hopewell 2 and 3. The total rail distance is about 420 miles.

The alternate route from the alternate supply area originates coal near Clinton, Tennessee, in BOM District 8 on the Southern Railway which would move the coal to Bristol, Tennessee. The N&W would move it via Roanoke, Virginia, to Alberta, Virginia, where the SCL would pick up the coal for delivery to Hopewell 2 and 3. The total rail distance is approximately 470 miles.

3. *Originating trunk carrier.* The N&W, originating carrier of coal for Hopewell 2 and 3, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of deliveries of 20 per year per 83-ton car, the N&W may need as many as 110 additional cars by 1979 to handle the increased demand from Hopewell 2 and 3. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

The N&W indicated that the retirements from its hopper fleet are not expected to exceed 1,200 per year and that N&W has chop capacity to build 1,500 to 5,000 new cars per year, depending on demand.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive order under Section 2(a) of ESECA.

The N&W indicated transportation facilities at mines sites within BOM District 8 served by N&W are operating satisfactorily and that loading facilities are adequate to handle the increased coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Hopewell 2 and 3 are served by both the

N&W and SCL. Continental reported that coal had been burned as a boiled fuel at Hopewell 2 and 3 until the 1969–1971 period. Both the N&W and SCL tracks are now used for heavy freight service. There are no other obstacles to the delivery of coal to Hopewell 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Hopewell 2 and 3 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1512	E.I. DuPont de NeMours & Co.	Seaford Plant	2, 3	Seaford, Del.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

E. I. DuPont de Nemours & Company shall be referred to as the "owner" and as "DuPont". Seaford Plant Units 2 and 3 shall be referred to as the "MFBI's" and as "Seaford 2 and 3".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Seaford 2 and 3 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. DuPont, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C-602-S-0), filed on May 12, 1975; indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information DuPont filed with FEA dated July 20, 1976, April 7, 1977, and other information available to FEA, the following plant equipment and facilities at Seaford 2 and 3 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Scales.
6. Feeders.
7. Combustors.
8. Air heaters.
9. Soot blowers.
10. Special instrumentation and controls.
11. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Seaford 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Seaford 2 and 3 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Seaford 2 and 3 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Seaford 2 and 3 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraph A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Seaford 2 and 3 will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Seaford 2 and 3 is reasonable.

As a result of conversion, DuPont will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Seaford 2 and 3 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at Seaford 2 and 3 are totally offset by the current fuel cost differential between oil and coal burning at Seaford 2 and 3, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Seaford 2 and 3 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by DuPont. FEA related these additional capital investment costs to the total capitalization of DuPont and the remaining useful life after conversion of Seaford 2 and 3.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of DuPont to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to DuPont MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, DuPont's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Seaford 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Seaford 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeabe future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available. FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to met the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extent that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to product coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Demand (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following (Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	23.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Seaford 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[2] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.0

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1979 and thereafter	104

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8, and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,771
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts, 7, 8, and 13 with a 0.61–1.4% sulfur content (which includes the 1.0% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 0.61 to 1.4*
1978	2,831
1979	5,825
1980	10,484
1981	11,673
1982	16,937
1983	16,937
1984	16,937

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Seaford 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.*—Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for the Seaford 2 and 3 would probably come from BOM District 8 as the primary supply area and from BOM District 2 as the alternate supply area. While these supply areas are the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely routes as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Seaford 2 and 3 is to originate coal in BOM District 8 near Charleston, West Virginia on the Baltimore and Ohio (Chessie System). The Chessie System would move it via Hagerstown, Maryland to Newark, Delaware where Consolidated Railroad Corporation (Conrail) would pick it up for delivery to Seaford 2 and 3. The total rail distance is approximately 530 miles.

The alternate route from the primary supply area is to originate coal in BOM District 8 on the Chesapeake and Ohio (Chessie System) which moves it via Covington, Virginia and Washington, D.C. to Newark, Delaware where Conrail would pick it up for delivery to Seaford 2 and 3. The total rail distance is approximately 550 miles.

An alternate route from the alternate supply area would originate coal in BOM District 2 in Allegheny or Westmoreland Counties near Pittsburgh, Pennsylvania on Conrail, which would move it via Coatesville, Pennsylvania for delivery at Seaford 2 and 3. The total rail distance is approximately 350 miles.

3. *Originating trunk carrier.*—The Chessie System, originating carrier of coal for Seaford 2 and 3 has about 76,000 hopper cars with an average capacity of 77 tons. Using an average of 20 deliveries per year per 77-ton car, the Chessie System may need as many as 86 additional cars to handle the increased demand from Seaford 2 and 3. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating capacity nor obtain cars from other carriers in the originating vicinity. The Chessie System has indicated that an existing appropriation to buy and build new cars will increase their holdings to over 80,000.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Seaford 2 and 3 has used coal as an alternate fuel and now maintains an emergency inventory in storage silos. No difficulty is foreseen in delivering and receiving coal using facilities now in place.

There are no other obstacles to the delivery of coal to Seaford 2 and 3.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Seaford 2 and 3 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1678	Allied Chemical	Hopewell Chemical Plant	12	Hopewell, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Allied Chemical shall be referred to as the "owner" and as "Allied". Hopewell Chemical Plant Unit 12 shall be referred to as the "MFBI" and as "Hopewell Chemical 12".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Hopewell Chemical 12 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Allied, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14 (Form FEA C-602-S-0), filed on May 14, 1975, indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy sourcce.

B. Based on information Allied filed with FEA dated August 5, 1976, and other information available to FEA, the following plant equipment and facilities at Hopewell Chemical 12 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Bunkers
2. Soot blower
3. Burner
4. Conveyor
5. Pulverizers
6. Scales
7. Feeders
8. Unloaders
9. Ash handling equipment

C. FEA proposes to find that on June 22, 1974, Hopewell Chemical 12 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Hopewell Chemical 12 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973–1977, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Hopewell Chemical 12 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Hopewell Chemical 12 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential (which represents

the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Hopewell Chemical 12 will represent an annual savings.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Hopewell Chemical 12 is reasonable.

As a result of conversion, Allied will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boiler after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boiler should result.

The use of coal at Hopewell Chemical 12 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Hopewell Chemical 12 are totally offset by the current fuel cost differential between oil and coal burning at Hopewell Chemical 12, and potential future increases in the fuel cost differential, in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Hopewell Chemical 12 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Allied. FEA related these additional capital investment costs to the total capitalization of Allied and the remaining useful life after conversion of Hopewell Chemical 12.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Allied to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Allied MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Allied's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Hopewell Chemical 12 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Hopewell Chemical 12 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this MFBI during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For these companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler of the type used at Hopewell Chemical 12, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.83

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1979 and thereafter	144

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	Production (thousand tons)
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to the MFBI (in a probable regional supply/demand relationship related to the location of the MFBI) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.82–2.2% sulfur content (which includes the 1.82% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) Percent Sulfur 1.81 to 2.2
1978	62
1979	145
1980	145
1981	145
1982	145
1983	145
1984	145

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Hopewell Chemical 12 as described in paragraph A.3.a., above. FEA proposes to find that this uncommited coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Hopewell Chemical 12 would come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Hopewell Chemical 12 is to originate coal near Andover, Virginia, in BOM District 8, on the Norfolk and Western (N&W), which would move it via Lynchburg and Petersburg, Virginia, to the plant. The total rail distance is approximately 390 miles.

The alternate route from the primary supply area originates coal in the same area on the Southern Railway which would haul the coal to Bristol, Tennessee. The N&W would then move the coal via Roanoke to Alberta, Virginia where the Seaboard Coast Line (SCL) would pick the coal up for delivery to the plant. The total rail distance is about 420 miles.

The alternate route from the alternate supply area is to originate coal near Clinton, Tennessee in BOM District 8 on the Southern Railway which would move the coal to Bristol, Tennessee. The N&W would move the coal via Roanoke, Virginia to Alberta, Virginia where the SCL would pick it up for delivery to Hopewell Chemical 12. The total rail distance is approximately 470 miles.

3. *Originating trunk carrier.*—The N&W, the originating carrier of coal for Hopewell Chemical 12, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of deliveries of 20 per year per 83-ton car, the N&W may need as many as 80 additional cars by 1979 to handle the increased demand from Hopewell Chemical 12. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The N&W indicated that the retirements from its hopper fleet are not expected to exceed 1,200 per year and that N&W has shop capacity to build 1,500 to 5,000 new cars per year, depending on the demand.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The N&W indicated that transportation facilities at those sites within BOM District 8 served by N&W are operating satisfactorily and that loading facilities are adequate to handle the increased volume.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Hopewell, Virginia is served by both the N&W and SCL. Hopewell Chemical 12 reported that coal had been burned as a boiler fuel until a few years ago. Both the N&W and SCL tracks are now used for heavy freight service.

There are no other obstacles to the delivery of coal to this MFBI.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Hopewell Chemical 12 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1716	Union Carbide Corp	Institute Plant	12	Institute, W. Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Union Carbide Corporation shall be referred to as the "owner" and as "Union Carbide". Institute Unit 12 shall be referred to as the "MFBI" and as "Institute 12".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Institute 12 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Union Carbide, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0) filed on May 20, 1975 indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based in information Union Carbide filed with FEA dated June 21, 1976 and other information available to FEA, the following plant equipment and facilities at Institute 12 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Conveyors.
2. Crushers.
3. Feeders.
4. Soot Blowers.
5. Unloaders.
6. Special instrumentation and controls.
7. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Institute 12 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Institute 12 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973-1977, the remaining useful service life of the boiler after conversion, the net operating cost defferential that would result from compliance with a Prohibition Order, as well as the facts and interpretations reference below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that the MFBI will experience a substantial curtailment of its present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Institute 12 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Institute 12 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Institute 12, will represent an annual cost increase of $208,000.

3. *Reasonableness of additional costs of burning coal.*—The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source the MFBI would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because the MFBI will eventually experience a substantial curtailment of its supply of natural gas. If the Prohibition Order were not issued to the MFBI it could alternatively replace its current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of its natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for this MFBI resulting from operating on coal as the primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $208,000.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Institute 12 is not unreasonable. Burning of coal by the MFBI as its primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that the MFBI could experience annual savings in its total fuel costs should it convert to coal instead of converting to petroleum products, there would be a net increase in the costs to the MFBI.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Institute 12 by $208,000 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the MFBI, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of the MFBI.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Institute 12 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Institute 12 will experience a substantial curtailment of its present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Institute 12 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Union Carbide. FEA related these additional capital investment costs to the total capitalization of Union Carbide and the remaining useful life after conversion of Institute 12.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Union Carbide to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, excluding fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders if any, issued to date under authority of Section 2(a) and (c) of ESECA to Union Carbide MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Union Carbide's total annual costs after conversion will increase by $208,000.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Institute 12 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Institute 12 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this MFBI during the period until December 31, 1984*

A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight.

To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyon 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 production, therefore, tends to underestimate actual production potential.

An FEA study, "Coal Availability Report, April 1977" (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.*—FEA's "Availability Report" has determined that a boiler, of the type used at Institute 12, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.1

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

	Demand (thousand tons)
Year: 1978 and thereafter	95

c. *National planned production, characteristic coal.* FEAs "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	61,390
1979	112,998
1980	141,696
1981	169,688
1982	179,742
1983	193,201
1984	228,474

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demnd (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to this MFBI (in a probable regional supply/demand relationship related to the location of this MFBI) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	23,720
1979	41,682
1980	46,902
1981	54,781
1982	58,159
1983	62,984
1984	72,417

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e.

above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to this NOI, from all other Notices of Intention to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,771
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.61–1.4% sulfur content (which includes the 1.1% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) Percent sulfur 0.61 to 1.4
1978	2,831
1979	5,578
1980	9,839
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Institute 12 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Institute 12 would probably come from BOM District 8 as the primary supply area and as the alternate supply area. While this supply region is among the nearest available source able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternates routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Institute 12 is to originate coal in District 8 near Lexington, Kentucky, on the Chesapeake and Ohio Railway Co. (Chessie System) which would move it to Institute 12 via Huntington and Charleston, West Virginia. Total rail distance is approximately 172 miles. The alternate route from the primary supply area originates coal in the Corbin, Kentucky area on the Louisville and Nashville (L&N) which moves it to Lexington, Kentucky, where the Chessie System picks it up to deliver to Institute 12. Total rail distance is about 262 miles.

An alternate route from the alternate supply area is to originate coal BOM District 8 in the Whitesville, West Virginia area on the Chesapeake and Ohio line, which would deliver coal to Institute 12. Total rail distance is about 45 miles.

3. *Originating trunk carrier.*—The Chessie System, originating carrier of coal for Institute 12 has about 76,000 hopper cars with an average capacity of 77 tons. Using an average number of deliveries of 20 per year, per 77 ton car, the Chessie System may need as many as 196 additional cars starting in 1980 to handle the increased demand from Institute 12. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

"FEA's Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Institute 12 has indicated that coal has been delivered to it in the past by the Chessie System.

There are no other obstacles to the delivery of coal to Institute 12.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Institute 12 presently exist, and alternate routes are available.

APPENDIX [1]

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

[1] Attached to this Appendix is FEA's MFBI Prohibition Order Candidate Identification and Selection Methodology.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2776	Scott Paper Co.	Chester Plant	8,9	Chester, Pa.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Scott Paper Company shall be referred to as the "owner" and as "Scott Paper." Chester Plant Units 8 and 9 shall be referred to as the "MFBI's" and as "Chester 8 and 9".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Chester 8 and 9 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Scott Paper, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C-602-S-0), filed on June 13, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy scource, notwithstanding the fact that on June 22, 1974, the MFBI's may have been burning coal as their primary energy source.

B. Based on information Scott Paper filed with FEA dated July 22, 1976, and other information available to FEA, the following plant equipment and facilities at Chester 8 and 9 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Scales and feeders.
4. Silos.
5. Pulverizers.
6. Combustors.
7. Soot blowers.
8. Special instrumentation.
9. Waste water treatment equipment.
10. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Chester 8 and 9 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Chester 8 and 9 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1976, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance

with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Chester 8 and 9 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on Information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Chester 8 and 9 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Chester 8 and 9 will represent an annual cost increase of $478,000.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Chester 8 and 9 is reasonable.

As a result of conversion, Scott Paper will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Chester 8 and 9 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel. Although conversion to the burning of coal would be expected to increase the cost of operating at Chester 8 and 9, FEA proposes to find that such increased cost per barrel of oil saved is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of Scott Paper as examined in the following analysis of financial capability, the nature of the expected operation of these boilers, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Chester 8 and 9 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Scott Paper. FEA related these additional capital investment costs to the total capitalization of Scott Paper and the remaining useful life after conversion of Chester 8 and 9.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Scott Paper to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Scott Paper MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Scott Paper's total annual costs after conversion will increase by $622,998.

B. *Consistency with the purposes of* ESECA.—Because the issuance of a Prohibition Order to Chester 8 and 9 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Chester 8 and 9 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within those recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection therefore tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereinafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) or ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	936
1984	986
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other

Notices of Intention to issued Prohibition Orders to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristics coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers, of the type used at Chester 8 and 9 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (° F)	[1] 2,200
Sulfur (approximately) (percent	[2] .5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

	Demand (thousand tons)
Year: 1980 and thereafter	93

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nation-wide market as follows:

Year:	Production (thousand tons)
1978	27,235
1979	46,396
1980	59,975
1981	72,159
1982	77,998
1983	85,538
1984	99,731

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentialy available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	2,273
1979	4,624
1980	5,120
1981	6,174
1982	6,527
1983	6,980
1984	8,596

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8, and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.4 to 0.6% sulfur content (which includes the 0.5% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur 0.4 to 0.6
1978	72
1979	952
1980	2,389
1981	2,883
1982	3,296
1983	3,709
1984	3,709

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Chester 8 and 9 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1973 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report") coal for Chester 8 and 9 would probably come from BOM District 8 as both the primary and alternate source of supply. While this supply region is the nearest available source able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Chester 8 and 9 is to originate coal in BOM District 8 near Hazard, Kentucky on the Louisville and Nashville (L&N) Railroad which would move it to Lexington, Kentucky. The Chesapeake and Ohio and Baltimore and Ohio (Chessie System) would then move it via Charleston, West Virginia and Baltimore, Maryland to Chester, Pennsylvania. The total rail distance is about 610 miles.

The alternate route from the primary source is to originate coal near Prestonburg, Kentucky on the Chessie System which would move it via Huntington, West Virginia to Pittsburgh, Pennsylvania. Consolidated Railroad would then move it to Chester, Pennsylvania. The total rail distance is about 705 miles.

An alternate route from the alternate supply area would originate coal in BOM District 8 on the Chesapeake and Ohio line near Charleston, West Virginia, which would haul it to Washington, D.C. Conrail would then move the coal to Chester, Pennsylvania. Total rail distance is about 505 miles.

3. *Originating trunk carrier.*—The L&N, originating carrier of coal for Chester 8 and 9 has about 34,000 hopper cars with an estimated average capacity of 75 tons per car. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 79 additional cars by 1980 to handle the increased demand from Chester 8 and 9. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition

Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at nine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.*—Freight service to Chester 8 and 9 is provided by Conrail and the Chessie System as illustrated above. This plant used coal as a boiler fuel until the early 1950's, but unloading, handling, and storage facilities would need to be reinstalled. It is expected that this installation can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Chester 8 and 9.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Chester 8 and 9 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2839	FMC Corp.	Fredericksburg Plant	58, 59, 60, 61, 62	Fredericksburg, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

FMC Corporation shall be referred to as the "owner" and as "FMC". Fredericksburg Plant Units 58, 59, 60, 61 and 62 shall be referred to as the "MFBI's" and as "Fredericksburg 58, 59, 60, 61 and 62".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Fredericksburg 58, 59, 60, 61 and 62 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. FMC, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 30, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information FMC filed with FEA dated July 21, 1976, and other information available to FEA, the following plant equipment and facilities at Fredericksburg 58, 59, 60, 61 and 62 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Coal handling equipment.
2. Ash handling equipment and ponding facilities.
3. Stokers.
4. Soot blowers.

C. FEA proposes to find that on June 22, 1974, Fredericksburg 58, 59, 60, 61 and 62 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Fredericksburg 58, 59, 60, 61, and 62 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1976, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Fredericksburg 58, 59, 60, 61 and 62 have been determined. This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Fredericksburg 58, 59, 60, 61 and 62 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Fredericksburg 58, 59, 60, 61 and 62, will represent an annual savings.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Fredericksburg 58, 59, 60, 61 and 62 is reasonable.

As a result of conversion, FMC will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Fredericksburg 58, 59, 60, 61 and 62 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increased capital investment costs and operating and maintenance costs at Fredericksburg 58, 59, 60, 61 and 62 are totally offset by the current fuel cost differential between oil and coal burning at Fredericksburg 58, 59, 60, 61 and 62, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Fredericksburg 58, 59, 60, 61 and 62 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book March 1977. Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Sections 2 (a) and (c) of ESECA to MFBI's owned by FMC. FEA related these additional capital investment costs to the total capitalization of FMC and the remaining useful life after conversion of Fredericksburg 58, 59, 60, 61 and 62.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of FMC to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Sections 2 (a) and (c) of ESECA to FMC MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to

compliance with this NOI and all other NOI's currently under consideration, FMC's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Fredericksburg 58, 59, 60, 61 and 62 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Fredericksburg 58, 59, 60, 61 and 62 would be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.*—United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient produtcion of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Fredericksburg 58, 59, 60, 61 and 62 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[2] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.6

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

	Demand (thousand tons)
Year: 1980 and thereafter	236

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal regardless of characteristics.* The national planned production of characteristics coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all ourstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8% sulfur content (which includes the 1.6% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 1.41 to 1.8*
1978	226
1979	897
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitteed coal production that meets the requirements of Fredericksburg 58, 59, 60, 61 and 62 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2 (a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observers, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for the Fredericksburg 58, 59, 60, 61 and 62 would probably come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available sources able to supply complying coal to Fredericksburg 58, 59, 60, 61 and 62, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Fredericksburg 58, 59, 60, 61 and 62 is to originate coal in BOM District 8 on the Norfolk and Western (N&W) Railroad near Williamson, West Virginia. N&W would haul it to Lynchburg, Virginia and the Chesapeake and Ohio (Chessie System) would move the coal to Richmond, Virginia, where the Richmond, Fredericksburg, and Potomac (RFP) would pick it up for delivery to Fredericksburg 58, 59, 60, 61 and 62. The total rail distance is about 460 miles.

An alternate route from the primary supply area originates coal in BOM District 8 near Appalachia, Virginia on the N&W which would load and move the coal via Roanoke to Meherrin, Virginia. The Southern Railway would then move it to Richmond, Virginia. The RFP would deliver the coal to Fredericksburg 58, 59, 60, 61 and 62. The total rail distance is about 460 miles.

An alternate route would originate coal in BOM District 8 Southeast of Charleston, West Virginia on the Chesapeake and Ohio (Chessie System) which would haul it via Covington and Charlottesville, deliver it to Fredericksburg 58, 59, 60, 61 and 62. The total rail distance is approximately 370 miles.

3. *Originating Trunk carrier.*—The N&W, the originating carrier of coal for Fredericksburg 58, 59, 60, 61 and 62, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of deliveries of 20 per year per 83-ton car, the N&W may need as many as 155 additional cars to handle the increased demand from Fredericksburg 58, 59, 60, 61 and 62. The N&W indicated that the retirements from their hopper fleet are not expected to exceed 1,200 per year and that N&W has shop capacity to build 1,500 to 5,000 new cars per year, depending on demand. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The N&W indicated that transportation facilities at mines within BOM District 8 served by the N&W are operating satisfactorily and that loading facilities could handle the required coal volumes.

4. *Destination carrier and MFBI's facilities.*—FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carrier should they be used.

The RFP currently provides heavy freight service to Fredericksburg 58, 59, 60, 61 and 62. Although the plant used coal as a primary fuel until 1970, it reports that new coal unloading and handling equipment and facilities would need to be reinstalled. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Fredericksburg 58, 59, 60, 61 and 62.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Fredericksburg 58, 59, 60, 61 and 62 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
QCU-2840	Avtex Fibers Inc.	Front Royal Plant	1,2,3	Front Royal, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Avtex Fibers, Inc., shall be referred to as the "owner" and as "Avtex." Front Royal Units 1, 2 and 3 shall be referred to as the "MFBI's" and as "Front Royal 1, 2 and 3."

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Front Royal 1, 2 and 3 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Avtex, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 30, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Avtex filed with FEA dated September 28, 1976 and other information available to FEA, the following plant equipment and facilities at Front Royal 1, 2 and 3 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Pulverizers.
2. Coal handling equipment.

C. FEA proposes to find that on June 22, 1974, Front Royal 1, 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Front Royal 1, 2 and 3 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment

and facilities associated with the burning of coal at Front Royal 1, 2 and 3 have been determined.

This determination was based on existing FEA information and analysis, as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Front Royal 1, 2 and 3 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraph A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Front Royal 1, 2 and 3 will represent an annual savings.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Front Royal 1, 2 and 3 is reasonable.

As a result of conversion, Avtex will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Front Royal 1, 2 and 3 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Front Royal 1, 2 and 3 are totally offset by the current fuel cost differential between oil and coal burning at Front Royal 1, 2 and 3 and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Front Royal 1, 2 and 3 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Avtex. FEA related these additional capital investment costs to the total capitalization of Avtex and the remaining useful life after conversion of Front Royal 1, 2 and 3.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Avtex to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Avtex MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Avtex's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Front Royal 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased used of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Front Royal 1, 2 and 3 would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984. A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics

available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Front Royal 1, 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (° F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.7

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1980 (and after)	250

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8% sulfur content (which includes the 1.7% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Secton 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) Percent sulfur 1.41 to 1.8
1978	226
1979	837
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Front Royal 1, 2, and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and Coal Supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Front Royal 1, 2 and 3 would probably come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Front Royal 1, 2 and 3 is to originate coal near Williamson, West Virginia in BOM District 8 on the Norfolk and Western Railroad Company (N&W) which would deliver it via Bluefield, West Virginia to Front Royal 1, 2 and 3. The total rail distance is about 390 miles.

The alternate route from the primary supply source would originate coal near Williamson, West Virginia on the N&W which would move it to Beckley, West Virginia. The Chesapeake and Ohio would move the coal via Covington, Virginia to Strasburg, Virginia where the Southern Railway would pick it up for delivery to Front Royal 1, 2 and 3. The total rail distance is about 365 miles.

The alternate route from the alternate supply area would originate coal on the Chesapeake and Ohio (Chessie System) in BOM District 8 near Charleston, West Virginia. The Chessie System would move it to Waynesboro, Virginia where the N&W would pick it up and deliver it to Front Royal 1, 2 and 3. The total rail distance is about 325 miles.

3. *Originating trunk carrier.*—The N&W, the originating carrier of coal for Front Royal 1, 2 and 3 has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average delivery of 20 per year per 83-ton car, the N&W may need as many as 111 additional cars to handle the increased demand from the Front Royal 1, 2 and 3. N&W reports that their own car shop which repairs and builds cars has a capacity of 1,500 new cars per year depending on market demand. They do not anticipate any difficulty in meeting the requirements of Front Royal 1, 2 and 3.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The N&W indicates that transportation facilities at mine sites within BOM District

8 served by the N&W are operating satisfactorily and that loading facilities can handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Front Royal, Virginia is served by a short branch line from tracks of both the Norfolk and Western and Southern Railway. Coal was delivered to the plant until a few years ago. Some maintenance will probably be required to refurbish the unloading and handling facilities. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Front Royal 1, 2 and 3.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major contraints to coal delivery over the primary route to Front Royal 1, 2 and 3 presently exist, and alternate routes are available.

[FR Doc.77-13694 Filed 5-17-77;8:45 am]

federal register

WEDNESDAY, MAY 18, 1977

PART III

FEDERAL ENERGY ADMINISTRATION

■

ADMINISTRATIVE PROCEDURES AND SANCTIONS

1974 Price and Allocation Interpretations

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1974 Price and Allocation Interpretations

AGENCY: Federal Energy Administration.

ACTION: Notice of Interpretations.

SUMMARY: Attached are all price and allocation Interpretations issued by the General Counsel of the Federal Energy Administration (FEA) in calendar year 1974 plus certain Interpretations issued in 1974 by FEA Regional Counsels. This is one of a series of Notices intended to make FEA Interpretations available to the public through publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Laura Holtz (Office of General Counsel), Room 7132, The Federal Building, 12th and Pennsylvania, NW, Washington, DC. 20461, 202-566-2085.

SUPPLEMENTARY INFORMATION: In accordance with FEA's initial Notice concerning the publication of Price and Allocation Interpretations (42 FR 7923, February 8, 1977), appended hereto are all Interpretations issued during calendar year 1974 by the FEA General Counsel pursuant to 10 CFR Part 205, Subpart F, and the Interpretations issued by Regional Counsels after October 31, 1974.

Prior to November 1974, Regional Counsels had been delegated authority to issue Interpretations without the review and approval of the General Counsel. These early regional Interpretations were issued in large numbers and often according to a less formal format than that followed subsequently. At the end of October 1974 FEA instituted a new procedure by which Interpretations issued by Regional Counsels are required to be reviewed and approved by the General Counsel prior to issuance. For purposes of FEA's program for publication of Interpretations, FEA has elected to include in today's Notice of 1974 Interpretations only those regional Interpretations which were issued after October 31, 1974, with the General Counsel's approval. This selection is not intended to reflect in any way on the validity of regional Interpretations issued prior to November 1, 1974. All 1974 regional Interpretations, whether or not they were issued with the specific approval of the General Counsel, continue to be available to the public through FEA's public reading room.

FEA would prefer to number Interpretations by year and the order in which they were issued—e.g., Interpretation 1974-1, 1974-2, etc.—as in the manner of FEA Rulings. Many Interpretations issued in 1974 have already been reprinted in FEA's Compliance Manual under such a sequential numerical designation system. That system does not, however, reflect a complete listing of Interpretations issued in 1974 (all regional Interpretations were omitted) and does not entirely follow the chronological order in which the Interpretations reprinted therein were issued. Because FEA's Compliance Manual is available to the public through Freedom of Information procedures and Interpretations as numbered therein have been cited in proceedings before FEA and elsewhere, FEA believes that unnecessary confusion would result if FEA were to seek to renumber all 1974 Interpretations strictly in accordance with the date of issuance.

Therefore, FEA has assigned numerical designations to 1974 Interpretations as follows: (1) Interpretations 1974-1 through 1974-27 are the same as Interpretations 1974-1 through 1974-27 in the Compliance Manual, except that (a) non-interpretive letter reproduced in the Compliance Manual as Interpretation 1974-9 is omitted here; (b) Interpretations 1974-11 and 1974-25, which were also reproduced in the Compliance Manual, are listed by name, date, "rules interpreted" heading, and classification code herein, but the text of each is omitted because (i) Interpretation 1974-11 was vacated on administrative appeal based upon an error in fact, and (ii) Interpretation 1974-25 was modified by Interpretation 1976-11; and (c) Interpretations 1974-2, 1974-4, 1974-5, 1974-6, 1974-13, and 1974-24, which were neither reproduced nor listed by name in the Compliance Manual, are included herein; and (2) Interpretations 1974-28; and 1974-29 are all other Interpretations issued in 1974 (regional Interpretations issued after October) numbered in accordance with the chronological order of their issuance.

Older Interpretations are more likely to relate to regulations, rulings or laws which have been amended, revised or revoked, compared with more recent Interpretations. Thus, for example, 1974 Interpretations construing and applying FEA's definition of "property" may be of little interest or questionable continued validity in view of significant changes in that definition effective September 1, 1976. FEA has not attempted to review the Interpretations published today for continuing applicability and validity (except as noted above with respect to Interpretations 1974-11 and 1974-25). Interested persons should therefore note with particular attention the limitations on the applicability of Interpretations as stated below.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal (§ 205.86). Several of the Interpretations published herewith have been affirmed on appeal to date and none of them has been modified or reversed on appeal except as noted above. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA Notice cited above.

Issued in Washington, D.C., May 11, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX.—*Table of 1974 Interpretations*

Number	To	Date	Category
1974-1	Portable Sanitation Association	Mar. 15	Allocation.
1974-2	Sound Refining, Inc	Mar. 18	Do.
1974-3	Hamilton Brothers Oil Co	Apr. 19	Do.
1974-4	Signal Oil and Gas Co	May 17	Allocation/price.
1974-5	Greene Bros. LP Gas & Oil Co	May 23	Price.
1974-6	Charter Oil Co	May 29	Allocation.
1974-7	Greenbelt Consumer Services, Inc	June 20	Price.
1974-8	Atlantic Richfield Co	June 24	Do.
1974-9[1]			
1974-10	Standard Oil Co. of Ind	July 9	Allocation.
1974-11	Liquid Waste Disposal Co	July 17	Price.
1974-12	Estron Oil Corp., et al	July 18	Allocation/price.
1974-13	McCulloch Gas Processing Corp	July 25	Price.
1974-14	Exxon Co	Aug. 2	Do.
1974-15	Sky Harbor Air Services, Inc.; Atlas Aircraft Corp	Aug. 8	Allocation.
1974-16	Amoco Oil Co. (Ind.)	Sep. 3	Price.
1974-17	Celanese Corp	Sep. 14	Allocation.
1974-18	Williams Energy Co	Sep. 11	Do.
1974-19	Swann Oil, Inc	Oct. 16	Do.
1974-20	Petro US, Inc	Nov. 4	Price.
1974-21	The Flying Tiger Line, Inc: Tesoro-Alaskan Petroleum Corp	Nov. 15	Allocation.
1974-22	Darrell Jackson	Dec. 2	Price.
1974-23	Pru Lease, Inc	Dec. 6	Do.
1974-24	National Life and Accident Insurance Co	Dec. 1	Do.
1974-25	National Convenience Stores, Inc	Dec. 10	Allocation.
1974-26	Continental Oil Co	Dec. 12	Price.
1974-27	Department of Defense	Dec. 17	Allocation.
1974-28	United Oil Co., Inc	Dec. 13	Price.
1974-29	Expo Car Wash, Inc	Dec. 30	Allocation.

[1] No interpretation designated 1974-9 was issued.

INTERPRETATION 1974—1

To: Portable Sanitation Association.

Date: March 15, 1974.

Rule Interpreted: § 211.103(a)(1)(iv).

Code: GCW—AI—Allocation Levels, Definition of Sanitation Services.

Your recent letter requested an interpretation of § 211.103(a)(1)(iv) of the Petroleum Allocation and Price Regulations as that section applies to members of your association. Section 211.103(a)(1)(iv) provides that end-users who are bulk purchasers or wholesale purchasers of motor gasoline have an allocation level of one hundred percent of current requirements when used to provide sanitation services.

We understand that members of your association provides portable sanitation units for construction sites, sporting events, recreation areas, the scenes of accidents and natural disasters, and other locations where permanent toilet facilities are not available. Services include delivery and installation of portable chemical toilets, and regular maintenance, including pumping and disposal of the toilet effluent and furnishing fresh chemicals, toilet paper, deodorant blocks and other supplies.

It is my opinion that a member of your association collects and disposes of solid wastes for the general public when performing the services described in the preceding paragraph and is therefore engaged in providing sanitation services. Accordingly, a member who is an end-user bulk purchaser or wholesale purchaser of motor gasoline would qualify for the allocation level provided by the § 211.103(a)(1)(iv) of the Regulations when providing such sanitation services subject to any other applicable provisions of the regulations.

This interpretation is made under § 205.101 of the regulations which provides that only the person to whom it is addressed may rely upon it and that it may be subsequently revoked or modified. However, as your request appears to present a subject matter of general applicability to your industry, we are considering a ruling for publication under § 205.181 for the guidance of the industry.

INTERPRETATION 1974—2

To: Sound Refining, Inc.

Date: March 18, 1974.

Rule Interpreted: § 211.64(a).

Code: GCW—AI—December 1 Rule.

This is in response to your January 31, 1974, letter requesting an interpretation of § 211.64(a) of the Mandatory Petroleum Allocation and Price Regulations. We understand that under a contract in effect on December 1, 1973, Sound Refining, Inc., bought crude oil from Union Oil Company and sold asphalt and unfinished middle distillate to Union. The contract was to have expired on December 31, 1973.

You have asked whether § 211.64(a) requires that Union continue to supply crude oil to Sound and if so, whether Sound must continue supplying asphalt and unfinished distillate to Union.

Section 211.64(a), as amended, states: All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program except purchases and sales made to comply with this program: *Provided, however,* That (1) any contract or agreement for the sale, purchase, or exchange of domestic crude oil may be terminated by the mutual consent of both parties; (2) the provisions of this paragraph do not apply to the first sale of crude oil pursuant to § 210.32 of this chapter; and (3) the provisions of this chapter shall not apply to the seller of any crude oil if the present purchaser of such crude oil refuses, after notice by the seller, to meet any bona fide offer made by another purchaser to buy such crude oil at a lawful price above the price paid by the present purchaser.

Sound takes the position that since the regulation refers specifically to crude oil, only crude oil arrangements in existence on December 1, 1973, are to continue and that the intention of § 211.64(a) was not to freeze supply arrangements as to other products. Sound, therefore, would require Union to continue to supply crude oil to Sound without a requirement that Sound compensate Union with asphalt or other products. Sound notes that neither asphalt nor unfinished distillate is subject to the Mandatory Petroleum Allocation Regulations. Finally, Sound states that it would be inequitable to require it to continue supplying the quantities of asphalt and unfinished distillate called for in the contract because those amounts, which were based on greater than normal inventories, are substantially in excess of quantities Sound previously supplied to Union under a series of contracts.

Under § 211.64(a) the supplier/purchaser relationships specified in the contract in effect on December 1, 1973, between Sound and Union must be continued. The supplier/purchaser relationship between Union and Sound was based upon Union's selling crude oil to Sound and Sound's selling asphalt and unfinished distillate to Union. The basis for that relationship must be continued unless terminated as provided in § 211.64(a)(1). Therefore, if Sound wishes to receive crude oil from Union, Sound must compensate Union by exchanging asphalt and distillate with Union on a basis acceptable to Sound and Union.

INTERPRETATION 1974—3

To: Hamilton Brothers Oil Co.

Date: April 19, 1974.

Rules Interpreted: §§ 210.62, 211.64.

Code: GCW—AI—December 1 Rule, Normal Business Practices.

We are writing in response to your letter of March 25, 1974, requesting interpretations of "normal business practices" under 10 CFR 210.62 and termination "by the mutual consent of both parties" under 10 CFR 211.64, in connection with a controversy between Hamilton and Ashland Oil, Inc. ("Ashland"). The facts relating to this controversy are as follows:

Hamilton supplied approximately 1,100 barrels per day of crude oil to Ashland under a contract the term of which expired on December 31, 1973, pursuant to notice given by Hamilton on June 13, 1973. Ashland and certain other companies filed suit in December 1973 against Hamilton for determination of the propriety of various charges made by Hamilton as operator under an oil and gas lease, the production of which is not involved in this matter. Hamilton has refused to sell crude oil to Ashland since December 31, 1973, because Ashland might refuse to make payment therefor in order to use such amount as set-off in the legal proceeding. However, Ashland made the required payments for the November and December 1973 crude deliveries by Hamilton. In addition, Ashland assured Hamilton on January 15, 1974 that it would pay for any crude oil purchased from Hamilton and that it would not offset any amounts due Hamilton against claims in such proceeding. Ashland filed a complaint against Hamilton for alleged violation of the Mandatory Petroleum Allocation Regulations on March 20, 1974.

Hamilton contends that it has no obligation to supply Ashland with additional crude oil because either (1) the parties mutually consented to the termination of the related contract under proviso (1) of § 211.64(a) or (2) Hamilton's refusal to deal with Ashland constitutes a normal business practice under § 210.62.

Under § 211.64(a), a supplier/purchaser relationship in effect under contract on December 1, 1973 is required to remain in effect, regardless of contract terms that would permit termination of such relationship. FEO interprets "terminated by the mutual consent of both parties" as used in § 211.64(a) to mean that the parties to a contract or agreement for sale of crude oil must affirmatively agree to terminate their supplier/purchaser relationship in light of the promulgation of § 211.64. Since the promulgation of § 211.64, Ashland has not affirmatively consented to terminate its contractual relationship with Hamilton. Accordingly, Hamilton may not rely on that Section in refusing to deal with Ashland after December 31, 1973.

FEO interprets "normal business practices" under § 210.62 to mean that Hamilton is not required to sell crude oil to Ashland pursuant to the Mandatory Petroleum Allocation Regulations if Ashland refuses to arrange proper credit or to pay for the crude oil. Hamilton has not alleged any facts which would indicate that Ashland might refuse to pay for crude oil received from Hamilton. Furthermore, Ashland has made the two required payments since the commencement of its legal proceeding against Hamilton and has assured Hamilton that it will make any further required payments. Accordingly, Hamilton may not avail itself of a defense based on § 210.62 in refusing to deal with Ashland after December 31, 1973.

INTERPRETATION 1974—4

To: Signal Oil and Gas Co.

Date: May 17, 1974.

Rules Interpreted: §§ 211.63, 212.52.

Code: GCW—AI, PI—December 1 Rule, Sales by Federal, State and Local Governments.

You recently requested an interpretation of the Federal Energy Office's regulations concerning supplier/purchaser relationships for crude oil under § 211.63 of the Mandatory Petroleum Allocation Regulations. In connection with your request, submissions were made on behalf of the California State Lands Commission, U Save Automatic Corporation, and World Oil Company.

We understand the relevant facts to be as follows:

Signal Oil and Gas Company ("Signal") on December 1, 1973, was the lessee from the State of California under two oil and gas leases the provisions of which permit California to take royalty crude oil under the leases or, in lieu thereof, cash. On December 1, 1973, Signal was purchasing the royalty crude oil under the two leases since the royalty crude oil was not being taken in kind by California.

However, in November 1973 California completed steps to direct the royalty crude under the two leases to purchasers other than Signal commencing May 1, 1974. On November 29, 1973, California accepted bids from two other firms—U Save Automatic Corporation and World Oil Company—for its royalty shares of the crude oil under the two leases, deliveries to commence May 1, 1974, and to continue for a five-year period. Signal was one of the unsuccessful bidders for the royalty crude oil. The price to be paid by the successful bidders was the lesser of the posted price for oil exempt from price

restrictions plus a specified bonus, or the maximum price under the price control regulations so long as they were in effect. If the posted price exceeded the posted price on September 26, 1973, plus the applicable bonus, the bidders would have the option of terminating their purchase contracts.

Since deliveries of the royalty crude oil to the two successful bidders were not to commence until May 1, 1974, Signal was the purchaser of the royalty crude on December 1, 1973. Section 211.63 (former section 211.64) of FEO's Mandatory Petroleum Allocations Regulations was issued and revised in the period intervening between December 1, 1973, and May 1, 1974. Section 211.63 of the FEO's regulations established mandatory supplier/purchaser relationships for crude oil as follows:

(a) All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program, * * * *Provided, however,* That * * * (3) the provisions of this paragraph shall not apply to the seller of any crude oil if the present purchaser of such crude oil refuses, after notice by the seller, to meet any bona-fide offer made by another purchaser to buy such crude oil at a lawful price above the price paid by the present purchaser.

(b) New crude petroleum may be sold to any person. Once the sale is made, the seller of such new crude petroleum shall continue to sell to that purchaser subject to the provisions of paragraph (a) (1), (2), and (3) of this section.

Pursuant to § 211.63(a) (3), California, by letter dated February 1, 1974, offered Signal the opportunity for a period of ten days to meet the two bids which California had accepted in November 1973. Signal rejected this offer by letter dated February 6, 1974. Subsequently, however, on February 21, 1974, an FEO proceeding for a proposed rule, which had been initiated October 25, 1973, was concluded by the FEO and, as proposed in the Notice of Rulemaking, the exemption from price controls for sales by State and local governments (including sales of crude oil) was removed with respect to all sales made on and after October 25, 1973. Signal then notified California that it would purchase the royalty oil "pursuant to the applicable provisions of Federal Energy Office regulations and for so long as sale of such royalty oil shall not be price exempt under such regulations."

The issues for consideration are whether (1) the acceptance by California on November 29, 1973, of the bids for the sale of California's royalty crude oil terminated the supplier/purchaser relationship as to such crude oil between California and Signal, and (2) if such supplier/purchaser relationship was not terminated by the acceptance of such bids, Signal's response to such bids in February 1974 permits California to terminate such relationship.

Based upon the foregoing, it is our conclusion that the acceptance by California of such bids on November 29, 1973, did not terminate the supplier/purchaser relationship imposed by § 211.63, since Signal was the purchaser of the crude oil on December 1, 1973. The fact that contracts existed that would alter that relationship at a later date does not affect the supplier/purchaser relationships imposed by § 211.63.

With respect to the second issue, it is our conclusion that the removal of the exemption for prices charged by State and local governments, referred to above, rendered the exempt prices offered to be paid by the respective bidders unlawful prices and, accordingly, Signal was not required to meet such bids under subparagraph (3) of § 211.63 (a) to preserve its supplier/purchaser relationship with California. The notice of proposed rulemaking initiated on October 25, 1973, placed all parties on notice that a final rulemaking when issued would be effective as of October 25, 1973. The two bids received by California in November 1973 were therefore made with notice that they might subsequently be unlawful by virtue of the rulemaking. To treat the two bids otherwise would require an exception from FEO's regulations. Accordingly, it is our opinion that the supplier/purchaser relationships imposed by § 211.63 cannot be terminated by the refusal of a purchaser to meet a bid for crude oil at a price which subsequently is determined to exceed the maximum amount allowed by the regulations.

However, as you know, the FEO decision on February 21, 1974, to terminate the exception from price controls for sales by State and local governments with respect to all sales made on and after October 25, 1973, has been reversed by the courts and the exemption for State and local governments has been held to apply prior to February 21, 1974. Accordingly, as of the date of this letter, the bids of World Oil and U Save Automatic have been made at lawful prices and the supplier/purchaser relationship terminated by the refusal of Signal to meet those bids. However, if the FEO should prevail upon the appeal of this matter, the prices of such bids would be rendered unlawful and the supplier/purchaser relationship would be reinstated.

Consideration of the fact that a certain volume of "new" crude petroleum is produced under one of the leases is unnecessary, since one separate bid was made for such production.

INTERPRETATION 1974—5

To: Greene Bros. LP Gas & Oil Co.

Date: May 28, 1974.

Rule Interpreted: § 212.93.

Code: GCW—PI—Product Cost Increases.

Mr. Allott in the Colorado office of the Federal Energy Office has referred your April 8 request for an interpretation to our office for a reply. Your letter referred to the meaning of certain language appearing in § 150.359 of the Cost of Living Council price regulations. This regulation has been adopted by FEO at § 212.93 of its regulations.

We have completed our review of your request to include certain enumerated business costs of a seller in the calculation of "increased costs," and conclude that none of the factors listed may be included in the calculations required by § 212.93(a).

The FEO, and the Cost of Living Council prior to January 15, 1974, designed the petroleum price rules in a manner which initially permitted only the increased cost of the product to be added to the May 15, 1973 selling price in determining lawful base prices for regulated petroleum products under § 212.93(a).

Since January 15, 1974, however, FEO has recognized that virtually all sellers have incurred increases in certain non-product (business) costs, and § 212.93(b) of the regulations has provided for the inclusion of a limited amount of such costs when computing lawful base prices. On April 1, 1974, FEO amended its regulations, at § 212.93 (b)(4), to provide:

With respect to propane beginning with April 1974: In retail sales, a seller may charge one cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases which the seller incurred after May 15, 1973; and, with respect to all other sales, a seller may charge one-half cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases which the seller incurred after May 15, 1973.

INTERPRETATION 1974—6

To: Charter Oil Co.

Date: May 29, 1974.

Rules Interpreted: §§ 211.62, 211.65, 211.11 (b), 211.104, EPAA § 4(b).

Code: GCW—AI—Definitions of Base Period Supplier and Processing Agreements.

On March 20, 1974, FEO received from Charter Oil Company (hereinafter "Charter") a request for Interpretation, Determination and/or Exception (hereinafter "request"). The request seeks (1) an interpretation and determination that Standard Oil Company of California is a base period supplier of Charter; (2) an interpretation and determination that Charter's business operations are conducted by two entities—marketing and brokerage—which would permit Charter to utilize a separate allocation fraction for each entity; and (3) an exception permitting Charter to use dual allocation fractions notwithstanding a finding by FEO that separate entities do not exist for allocation purposes. In support of its request, Charter has submitted copies of a contract with Chevron Oil Company (hereinafter "Standard") titled "Crude Oil Sales Agreement" and a contract with Standard Oil of Kentucky (hereinafter "KySo") designated as a "process agreement."

Charter Oil and its attorney were afforded an opportunity to elucidate the points of the request at a meeting with FEO on April 26, 1974.

Charter's request was forwarded to Standard Oil Company of California, which, on May 10, 1974, responded by letter to Charter's submission. On May 16, representatives of Standard, accompanied by counsel, met with FEO to discuss Standard's position relative to Charter's request.

For the reasons stated below, FEO has concluded that Standard is a base period supplier of Charter. Consideration of Charter's additional request for interpretation, determination and/or exception to legitimize the use of dual allocation fractions, is unnecessary in light of a letter of May 21, 1974, from Charter's counsel withdrawing that portion of the request in the event FEO determines that a supplier-purchaser relationship is found to exist between Standard and Charter.

I. THE SUPPLY RELATIONSHIP BETWEEN CHARTER AND STANDARD

A. *The Terms of the Contracts.*—The contracts submitted by Charter indicate that from January 1972 until December 1972, Chevron Oil Company (a wholly-owned subsidiary of Standard Oil Company of California) was obligated to sell Charter xxxxxx barrels per day of crude oil. The crude, technically delivered to Charter at Empire, Louisiana, was to be shipped through the Standard pipeline to the KySo refinery at Pascagoula, Mississippi. Title to and risk of loss of the crude passed to Charter when the crude entered the Standard pipeline on its journey to the refinery.

On January 1, 1972, the same date the crude purchase agreement was executed, Charter entered into the "process agreement" with KySo (a wholly-owned subsidiary of Standard Oil of California). Under the terms of this contract, KySo agreed to receive the xxxxxx barrels a day of crude to be "delivered" by Charter, and to provide Charter with one barrel of gasoline for each barrel of crude delivered to the refinery. Charter was also obligated to pay KySo a "processing fee" of about xxxxxx per barrel of gasoline de-

livered. Risk of loss and title to the crude passed to KySo as the crude entered the refinery from the pipeline and Charter took title to and assumed the risk of loss of the gasoline only at the time it was delivered to Charter.

B. *The Effect of the Contracts.*—The contracts, read together, appear to be part of an integrated transaction in which, in the final analysis, Charter purchased gasoline, not crude, from Standard. The contracts were not independent instruments. They were signed on the same day, had the same duration and provided for the purported sale and processing of identical quantities of crude. As a practical matter, it appears that Standard, on paper, "sold" crude to itself via an intermediary—Charter. At no time did the crude leave Standard's physical control and although title and risk of loss of the crude passed to Charter upon delivery, it remained with Charter only for the brief time in which the crude traveled in Standard's pipeline to Standard's refinery. In effect, Charter received title and control over the product only when the gasoline was delivered.

Unlike the customary type of industry processing agreement, Charter did not receive any refined products other than gasoline. A barrel of crude will not, as a practical matter, yield a barrel of gasoline. The actual refinery yield of a barrel of crude is a mixture of varying percentages of gasoline and other distillates depending upon the quality of crude, the operation and type of refinery. In the customary processing agreement, the owner of the crude, after processing, receives a mix of product, including gasoline. For the service of processing the crude, the refiner generally receives payment in kind or a fixed compensation.

It appears, therefore, that the contracts here in question were part of a transaction which keyed the price of the gasoline sold to Charter to the price charged for the crude with the addition of the fixed per barrel "processing fee." Charter had no ownership rights, not even an undivided interest, in the crude once it had reached Standard's refinery. After delivery of the crude to the refinery, Charter's only ownership interest attached to gasoline at the delivery point.

Moreover, according to Charter officials, Standard presented Charter with the two contracts and indicated that execution of both was necessary in order to purchase gasoline (the only product Charter desired). Standard officials and counsel, in a meeting with the FEO, were confronted with Charter's account of the transaction, but were never able to offer a business justification for handling such a transfer of product in this "two-step" manner.

C. *Impact of FEO Regulations on the Contracts.*—The FEO regulations provide a definition of "processing agreement." Section 211.62 of 10 CFR provides that processing agreements are those agreements "pursuant to which an owner of crude oil agrees to have that crude processed or refined by another person and *retains ownership* in some or all of the petroleum products so processed or refined from the crude oil." (Emphasis added.) Charter *retained* no ownership at any time as the crude was processed in Standard's refinery, nor did Charter retain any ownership in petroleum products processed or refined. Title to product vested only upon delivery from the refinery. Under the FEO definition, therefore, the contract between Charter and Standard would not be a processing agreement.

In sum, Standard merely had a contractual duty to sell barrels of gasoline a day to Charter, which Charter paid for by paying a fixed per barrel charge at the refinery plus the fluctuating per barrel cost of the crude.

Under FEO regulations (10 CFR 211.51), a supplier is any "refiner, importer, marketer, jobber, distributor, terminal operator, firm, corporation * * * or other person who supplies, sells, consigns, transfers or otherwise furnishes any allocated substance either to end-users or for resale * * *."

Suppliers of motor gasoline are required to allocate their total allocable supply among their wholesale purchasers in proportion to their wholesale purchaser's base period volumes, (or adjusted base period volumes (10 CFR 211.11(b)), and must supply their wholesale purchasers of record as of the base period (10 CFR 211.104). A "wholesale purchaser" includes, among others, any firm or corporation "which purchases, receives through transfer, or otherwise obtains an allocated substance in bulk or under contract at the wholesale level * * *."

Based upon the above definitions, and the conclusion that the agreements described above represent a sale of gasoline, Charter is a wholesale purchaser and Standard is a supplier of motor gasoline to Charter and must, pursuant to FEO regulations, provide product to Charter in the amount of base period volumes.

Since FEO has determined that the alleged "processing agreement" is, in substance, no more than a sale of gasoline, Standard's contention, that forcing it to provide gasoline to Charter will prove inconsistent with the crude allocation program, is academic. Section 211.65 (10 CFR) of the May 14 amendments to the crude program enables, in certain circumstances, refiner-buyers to purchase crude. The amount of crude a refiner-buyer is permitted to buy is equal to one quarter of the volume of the refiner-buyer's 1972 refinery crude runs to stills less the volume of crude oil runs to stills of such refiner-buyer for the period February through April 1974, as adjusted under other provisions of the program. The only relevant adjustment allows refiner-buyers to include in their 1972 crude runs to stills the volume of crude oil "processed by another refiner * * * pursuant to a processing agreement." (10 CFR 211.65(a)(2)).

Therefore, Standard urges, pursuant to the regulations, Charter, as a refiner-buyer, will be able to purchase an additional amount of crude because its 1972 volume of crude oil runs to stills will be increased by the volumes refined under the processing agreement. However, since FEO has determined that the Charter-Standard agreement is not a processing agreement, Charter cannot include the crude involved in its arrangement with Standard, in its 1972 crude oil runs to still for purposes of 10 CFR 211.65.

D. *Objectives of the Mandatory Allocation Program.*—In administering the mandatory allocation program, Congress directed, among other things, that, to the maximum extent practicable, the FEO preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers and branded independent marketers and provide for equitable distribution of refined petroleum products (Emergency Petroleum Allocation Act of 1973, section 4(b), Pub. L. 93-159).

Ultimate equity is achieved by this interpretation of the Standard-Charter relationship since it has the effect of preserving established 1972 supplier-purchaser relationships and tends to protect Charter and other independent marketers such as Diamond Shamrock, La Gloria and Triangle who are, in turn, dependent upon Charter for supply of product. The continuation of the supply and distribution scheme, established in 1972 in the Standard-Charter relationship and in Charter's relationship to its purchasers, tends to promote equitable distribution of motor gasoline, without unnecessary interference with market mechanisms.

II. CONCLUSION

For the above-stated reasons, Standard Oil of California is a base period supplier of motor gasoline to Charter in the amount of *x* barrels per day.

INTERPRETATION 1974—7

To: Greenbelt Consumer Services, Inc.

Date: June 20, 1974.

Rule Interpreted: § 212.31.

Code: GCW—PI—Class of Purchaser.

This is in response to your letter of October 1, 1973, re: "Greenbelt Consumer Services, Inc.—Request for Interpretation," which was addressed to the Internal Revenue Service—Stabilization, P.O. Box 1456, Baltimore, Maryland 21203. The request relates to the maximum lawful prices that may be charged for refined petroleum products under Subpart L of the Phase IV Price Regulations of the Cost of Living Council. As you know, the Cost of Living Council delegated its authority over petroleum prices on December 26, 1973, to the Federal Energy Office, and the former Cost of Living Council Regulations now appear as part of the FEO regulations at 10 CFR Part 212. I regret the delay which has occurred in responding to this request.

The essential facts upon which the request is based are as follows:

Greenbelt Consumer Services, Inc., until September 16, 1973, was a branded independent marketer of BP Oil Corporation petroleum products, under a March 25, 1970 Dealer Agreement between BP and Greenbelt. The Agreement specified that unless otherwise terminated or cancelled, it would be in force for one year beginning July 9, 1972, and from year to year thereafter, with either party to the Agreement having the right to terminate at the end of any yearly period, upon 30 days' prior written notice. On April 2, 1973, BP notified Greenbelt of its decision to terminate the Dealer Agreement on July 9, 1973 (the end of the first one year period provided for in the Dealer Agreement). On August 9, 1973, BP and Greenbelt entered into a new Sales Agreement, effective September 16, 1973, under which Greenbelt no longer had the right to use the BP trademarks and brand names, and under which Greenbelt was to pay the lowest of the following prices for gasoline purchased from BP:

(1) The spot (unbranded) price; or

(2) The dealer tankwagon price less *x* cents; or

(3) The maximum legal price or prices in effect from time to time during the term of the agreement.

The interpretation requested by Greenbelt is that under the Phase IV Price Regulations (now 10 CFR Part 212), the maximum lawful prices that BP may charge Greenbelt must be determined by reference to the May 15, 1973 prices which BP charged Greenbelt, which was at that time a branded dealer, rather than by reference to the May 15, 1973 prices which BP charged to nonbranded dealers, which Greenbelt has been since September 16, 1973.

The request indicates that the May 15, 1973 prices charged by BP to branded dealers were higher than the May 15, 1973 prices charged by BP to nonbranded dealers. The request, however, includes a showing of the monetary value of the equipment, services, and credit that were provided without charge by BP to Greenbelt under the Dealer Agreement, but which are not provided by BP to unbranded dealers, and for purposes of this interpretation it is assumed that Greenbelt is correct in asserting that the current value of such equipment, services, and credit is greater than the difference between the

May 15, 1973 prices charged by BP to branded dealers and to nonbranded dealers. It is also assumed for purposes of this interpretation that the prices BP is charging to Greenbelt are the lawful prices for purchasers in a class of purchaser which includes nonbranded dealers, since Greenbelt has not made any assertion to the contrary.

The issue, therefore, is whether, upon the September 16, 1973 termination of the Dealer Agreement between BP and Greenbelt, and the resulting change of Greenbelt from a branded to a nonbranded dealer, BP may charge Greenbelt prices which are determined by reference to the May 15, 1973 prices it charged to nonbranded dealers, or whether BP must determine its prices to Greenbelt by reference to the May 15, 1973 prices it charged to Greenbelt as a branded dealer and thereby take into account the value of the equipment, services and credit which was furnished to Greenbelt under the Dealer Agreement that was in effect at that time.

The FEO has concluded that upon the termination of the Dealer Agreement, and the resulting change of Greenbelt to a nonbranded dealer, BP may charge Greenbelt prices which are determined by reference to the May 15, 1973 prices to nonbranded dealers.

This result flows from the fact that under FEO regulations, the termination of franchise agreements per se is not violative of those regulations. Indeed, the Congress explicitly declined to adopt a provision of the Emergency Petroleum Allocation Act of 1973 that would have prohibited suppliers from terminating leases or franchises, except for cause. See Conference Report No. 93-628, 93rd Congress, First Session, 1973 at 30. And, given the fact that there has been a change in the underlying contractual relationship between BP and Greenbelt which is not in violation of FEO regulations, we have further concluded that it would not be appropriate to do anything other than permit Greenbelt to be included in a class of purchaser that includes other nonbranded dealers.

The treatment requested by Greenbelt would, in effect, create an exceptional class of purchaser—those purchasers which are now nonbranded but were branded on May 15, 1973. Purchasers in this class would receive a price that could only be established by FEO on a case-by-case basis and which would, assuming the correctness of Greenbelt's showing, be a lower price than that charged to other nonbranded dealers. As a practical matter, this would create a favored class of nonbranded dealers and place those nonbranded dealers who were also nonbranded on May 15, 1973, at a disadvantage. Also, under the interpretation requested by Greenbelt, any dealer which changed from a nonbranded to a branded status after May 15, 1973 would presumably be required to continue to pay the higher price charged to nonbranded dealers, even though that dealer had become a branded dealer.

Further reasons for not granting the interpretation requested by Greenbelt are the administrative difficulties and the unfairness that would be inherent in attempting to ascribe monetary values to the equipment, services, and credit which Greenbelt no longer receives as a nonbranded dealer. Not only are some of the values highly subjective, but many of them change from month to month, as the costs of providing them change. We have concluded in this regard that the only practicable means of insuring that prices are not increased by discontinuance of services provided to a class of purchaser is to insure that all such services are maintained to each member of the class. But where membership in a class is by virtue of a contractual relationship which FEO does not require be kept in effect, FEO will not undertake to keep the relationship in effect, in all but name, through price adjustments.

We wish to emphasize that in many instances classes of purchasers are determined solely on the basis of price and credit terms, and that this resonse to your request for interpretation is limited solely to the situation in which there has been a fundamental change in underlying relationship between the parties, by virtue of the termination of a branded Dealer Agreement.

INTERPRETATION 1974—8

To: Atlantic Richfield Co.

Date: June 24, 1974.

Rule Interpreted: § 212.72 (formerly § 212.74).

Code: GCW—PI—Current Cumulative Deficiency.

Your letter of March 8, 1974 requested an interpretation of the section of the Federal Energy Office price regulations that pertains to the calculation of the amount of "new" crude from a property's current month's production that may be sold at a price in excess of the ceiling price (§ 212.74(a)) and to the pricing of "released" crude (§ 212.74 (b)). The request was engendered by a disagreement between the Atlantic Richfield Company and the Amerada Hess Corporation. The facts as they relate to the amount of the month's total production of crude, and the amount of "new" crude are not in dispute. The issue is the proper pricing of the December, 1973 base production control level crude according to the price formula of § 212.74(b) of the regulations.

INTERPRETATION

Section 212.74(a) operates as a condition precedent that must be satisfied before there can be pricing of any crude in accordance with the formula in § 212.74(b). Paragraph (a) provides that there can be no sale of new crude at a price in excess of the ceiling price unless the cumulative production deficiencies of crude in prior months have been satisfied. Such deficiencies arise when the amount of crude produced from a property in a specific month is less than the base production control level for that property in that month. The deficiencies are eliminated by the sale at or below ceiling price of the current month's production of "new" crude in an amount sufficient to equal the cumulative past deficiency. Therefore, if the base production control level in May, for example, was 100 barrels and 110 barrels were produced, there would be 10 barrels of new crude. If no deficiencies have been carried forward, all 10 barrels can be sold at a price higher than the ceiling price (the free market price); if the cumulative past deficiency amounts to 10 barrels, none of the new crude can be sold at the free market price; and if the cumulative deficiency is 5 barrels, 5 of the 10 barrels must be sold at or below the ceiling price, and 5 barrels can be sold at the free market price.

The latter situation is analogous to the fact situation herein. Paragraph (a) of the regulations requires that the 5 barrels of new crude utilized to satisfy the production deficiency must be sold "at or below its ceiling price." You are correct in stating that there can be no pricing of a current month's production of crude in accordance with the formula in paragraph (b) of the regulations until the deficiency, or underage, has been satisfied from the current month's production of new crude and, further, that there must remain new crude that can be sold in accordance with paragraph (a). In the fact situation presented in your letter, this condition precedent has been satisfied.

The actual result of pricing the base production level of old crude in accordance with the formula in paragraph (b), assuming there are no production deficiencies that must be satisfied from a current month's production of new crude, is to provide the producer of crude with revenues equal to those which would be received if he sold one barrel of old crude at the free market price for every barrel of new crude that is sold at the free market price, as limited by paragraph (a). Since paragraph (a) only allows such new crude to be sold when past production deficiencies have been satisfied, the present definition of the formula symbol "Cpr" is inadvertently inconsistent with that limitation because it does not make provision for the subtraction from the current month's total crude production of the new crude that is required to be utilized to satisfy deficiencies carried forward from prior months.

The end-result of a calculation according to the formula in a month in which there were past deficiencies to be satisfied, given the present definition of "Cpr," would be contrary to the intention of § 212.74 because the formula would allow revenues received by a producer from the sale of free market price of a quantity of crude under the price formula of § 212.74(b) to exceed the income that would be derived from matching the sale of each barrel of new crude sold at the free market price, in accordance with paragraph (a), with the sale of a barrel of released crude at the same price. It is our interpretation, therefore, that for purposes of the price formula of § 212.74(b), deficiencies under § 212.74(a) must first be subtracted from the total production. The definition of the symbol "Cpr" in § 212.74(b) will be amended to make this requirement explicit by eliminating from the month's total production of crude the new crude used to satisfy the requirements of the second sentence of § 212.74(a).

INTERPRETATION 1974—9

[No Interpretation designated 1974—9 was issued.]

INTERPRETATION 1974—10

To: Standard Oil Co. of Indiana.

Date: July 9, 1974.

Rule Interpreted: § 211.51.

Code: GCW—AI—Definition of Wholesale Purchaser-Reseller; Commission Agents.

On behalf of Standard Oil Company of Indiana (Amoco), you have requested an opinion of whether Amoco commission agents are wholesale purchaser-resellers as defined in FEO regulations, 10 CFR 211.51. Alternatively, Amoco appeals from a letter of April 8, 1973 from the Regional Administrator of FEO region VII, which letter expressed the view that Mr. L. W. Green, as a former Amoco commission agent in Winfield-Oxford, Kansas, is a consignee entitled to an allocation.

In Amoco's request, you state that Amoco's commission agents are hired by the company to operate and to sell petroleum products from bulk facilities owned by the company. According to the information supplied by Amoco, the agent makes no capital investment in the bulk plant, except for a tank truck chassis, nor is the plant (owned by Amoco) leased to the agent. Moreover, Amoco asserts that product is neither sold nor consigned to the agent, and risk of loss and title to the product remains with Amoco until it is delivered to an end-user. Commission agents, according to the sample employment contract submitted by Amoco, are permitted to extend credit to accounts not authorized by the company, and the agent remains liable for credit extended in this

manner. Agents receive an extra bonus from Amoco for carrying such "unauthorized" credits. Compensation of these agents, according to Amoco, is on a commission basis keyed to a percentage of net sales, and Amoco pays state employment taxes, workmen's compensation, and unemployment compensation taxes on behalf of these agents. In addition, commission agents participate in Amoco's employee benefit plans, including health and life insurance, employee savings and retirement plans. Finally, at least ⅓ of the commission agents are represented by unions who engage in collective bargaining with Amoco.

In support of the interpretation request, Amoco has supplied sample copies of employment contracts, savings and pension plan enrollment forms, a sample collective bargaining agreement, a letter from the Treasury Department stating that commission agents are employees for purposes of federal employment tax, and a letter from the NLRB impliedly recognizing the status of your commission agents as employees. Amoco has also provided delivery tickets, invoices, salary statements and other documentary evidence relating to the operation of the Winfield-Oxford, Kansas bulk plant.

In response to Amoco's request for interpretation, Mr. Lloyd W. Green and his attorney have filed a reply. Mr. Green contends that, at least insofar as the requested interpretation would adversely affect him, it should be denied, since his function as an Amoco commission agent was equivalent to that of a consignee—not a mere employee. Since a consignee (but not an employee) is included within 10 CFR 211.51's definition of wholesale purchaser-reseller, Mr. Green believes that as a consignee he is entitled to an allocation from Amoco notwithstanding his dismissal as an Amoco commission agent.

In support of his position, Mr. Green alleges that, doing business as the L. W. Green Company, he delivered fuel from the Amoco bulk plants to customers, he would account to Amoco on a weekly basis for the total product delivered, and that he arranged for and personally extended credit to approximately 90 percent of his customers.

Mr. Green has also indicated that prior to 1972, he was a petroleum distributor in the Oxford, Kansas area for 25 years, and that prior to becoming an Amoco commission agent he sold the bulk plant to Amoco. Mr. Green speculates that he was fired as an Amoco commission agent because of his efforts to help unionize Amoco commission agents for Kansas.

Amoco, in reply to Mr. Green's allegations, has submitted copies of invoices, delivery tickets, and other material indicating that product was not sold to customers under the name L. W. Green Company, that Mr. Green had to account to Amoco for each sale of product, and that there were at least six "authorized" credit accounts at the Winfield-Oxford location. The documents indicate that no deliveries of product were made to an "L. W. Green Company" and all sales tickets recite that the seller is the "Standard Oil Division-American Oil Company" (Amoco).

Based upon an analysis of the facts recited above, and the exhibits submitted, the FEO has concluded that Amoco's commission agents, of the type described above, are employees of the company and are not within the contemplation of the definition of "wholesale purchaser-reseller" in the regulations.

The regulations provide (10 CFR 211.51) that a wholesale purchaser-reseller means "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

The concept of wholesale purchaser-reseller envisions an entity having more than the very limited physical control possessed by Amoco's commission agents over the distribution of the product. Amoco, rather than the agent, apparently exercises direct control over the inventory, pricing, and sales territory of the bulk distribution facilities here involved and retains title to the product until transferred to the ultimate purchaser. Also, Amoco exercises complete control over the commission agent, to the extent that a master-servant relationship apparently exists. The commission agent has an employment contract, may be part of a bargaining unit recognized by the NLRB, obtains all company health and welfare benefits and differs from a salaried employee only in the method of compensation; i.e., the agent's compensation is based on a commission formula. The only independent function exercised by the commission agent is his freedom, expressed in the employment contract, to extend credit (not authorized by the company) to customers on his own behalf. The company grants an extra bonus to the agent based on the aggregate dollar amount of credit carried by the agent.

On the basis of the facts presented to FEO, Amoco's commission agents appear to be mere commissioned employees of the company who serve a sales and supervisory function in relation to a bulk distribution facility.

The agent, in essence, functions in a manner analogous to plant or branch managers of the concern. Therefore, such agents are not "wholesale purchaser-resellers" within the contemplation of FEO regulations and Mr. L. W. Green, as a former commission agent, is not entitled to an allocation.

Amoco's alternative request for an "appeal" from the letter of the regional administrator need not be reached, since this interpretation is dispositive of the issue raised therein.

INTERPRETATION 1974—11

To: Liquid Waste Disposal Co.

Date: July 17, 1974.

Rules Interpreted: §§ 212.71, 212.72, 212.73, 212.74.

Code: GCW—PI—Reclamation of Waste Crude Oil.

(Text omitted because Interpretation 1974—11 was vacated on appeal based upon an error in fact. *Tesoro Petroleum Corp.*, 2 FEA § 80,514 (January 22, 1975).)

INTERPRETATION 1974—12

To: Estron Oil Corp., *et al.*

Date: July 18, 1974.

Rules Interpreted: §§ 211.51, 211.106(b)(1), 212.31.

Code: GCW—AI, PI—Wholesale Purchaser-Resellers; Definition of Resellers, Retailers.

This is in response to your letter dated February 22, 1974, requesting an interpretation pursuant to 10 CFR 205.101 et seq. of certain provisions of the Mandatory Petroleum Allocation and Price Regulations. Your request was made on behalf of Estron Oil Corporation, Spartan Petroleum Corporation, Spiegel Oil Corporation, Tartan Oil Corporation and Winner Petroleum Corporation (collectively referred to herein as the "companies"). As set forth in your request, the relevant facts are as follows:

The companies are parties to agreements with American Oil Company ("Amoco"), substantially in the form of the agreement dated September 29, 1972 between M. Spiegel & Sons Oil Corp and Amoco, a copy of which was attached to your letter, with respect to the solicitation by Spiegel of service station accounts at specified locations. Under the agreement, Spiegel was entitled to receive commissions of 2.8 cents per gallon of gas (subject to reduction in certain events) and of 10% of the dollar volume (exclusive of taxes) of motor oils sold to such service stations by Amoco. In the agreement, Spiegel represented that the specified service stations were leased to, or owned by, retail dealers, and that Spiegel did not participate in the operation of such stations. In addition, Spiegel agreed to cause such dealers to execute and deliver standard form dealer agreements with Amoco. Amoco agreed to cancel any such dealer agreement upon the expiration of its agreement with Spiegel. Amoco was required to furnish pumps, tanks and identification signs for the dealers.

Amoco delivered all gasoline and other products directly to and was paid therefor by the retail dealers (hereinafter referred to as the "dealers") whose accounts had been solicited by the companies; the commissions due the companies were paid directly to them by Amoco.

The agreements between the companies and such dealers, a form of which as used by Winner Petroleum Corporation was attached to your letter, provide that the particular company would sell and deliver and/or cause to be sold and delivered the dealer's entire requirements of gasoline, motor oil and specified other products. The dealer agreed to sell such products only under the particular company's designated brand name. The company was authorized to make certain alterations or repairs on the service station concerned to properly identify the brand name under which gasoline was being sold. Your letter additionally stated that the companies provide training, financial assistance and limited credit to the dealers, engaged in sales promotion activities, develop new business, provide and maintain marketing equipment and contribute to wholesale gasoline price reductions during price wars. In all but a few cases, the companies collect only enough rent from each dealer to pay the cost of owning or leasing the station site. Each dealer contract with Amoco would terminate if the agreement between Amoco and the company which solicited such dealer's account terminated.

The first issue as to which an interpretation is requested is whether in the base period a supplier/purchaser relationship existed between the companies and Amoco. More precisely, are the companies wholesale purchaser-resellers?

The definition of wholesale purchaser-reseller in 10 CFR 211.51 reads as follows: "Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

10 CFR 211.106(b)(1) provides as follows: Each firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of this subpart and, therefore, shall be separate wholesale purchaser-reseller. The entity which merely holds a real property interest in a retail sales outlet on which another entity operates the ongoing business shall not be considered the wholesale purchaser-reseller with respect to that outlet.

It is our conclusion that the companies do not constitute wholesale purchaser-resellers entitled to be supplied by Amoco. In no instance according to the facts submitted to us, did the companies purchase, receive through transfer or otherwise obtain any gasoline from Amoco. All sales of gasoline by Amoco were made directly to each dealer under an agreement between the dealer and Amoco, and the companies then were paid a

Commission by Amoco. In addition, the agreement between Amoco and Spiegel described above recites that Spiegel did not participate in the operation of stations assigned to Amoco by it. The economic interest of the companies in the operations of the dealers derives solely from their position as lessors of service station sites and from their receipt of commissions from Amoco. Our conclusion is supported by the language of § 211.106(b)(1) which basically states that the lessor of the real property for a retail sales outlet on which another entity operates the ongoing business shall not be considered a wholesale purchaser-reseller as to that outlet.

A second issue upon which interpretation is requested is whether the companies may take the one-half cent non-product cost pass-through allowed by § 212.93 of the regulations.

Section 212.93 is applicable to resellers, reseller-retailers, and retailers (§ 212.91). Resellers, reseller-retailers and retailers are each defined, in part, as a firm which "carries on the trade or business of purchasing covered products and reselling them * * *" (§ 212.31).

Since the companies do not purchase and resell covered products, they are not subject to § 212.93, and they may not, therefore, take any action pursuant thereto.

INTERPRETATION 1974—13

To: McCulloch Gas Processing Corp.

Date: July 25, 1974.

Rules Interpreted: §§ 212.31; EPAA §§ 3 (5), (6), 4(a); FEAA § 5(b)(11).

Code: GCW—PI—Definition of Refiner, Natural Gas Liquid Products.

The Office of General Counsel has received and reviewed the June 4, 1974 "Petition for Interpretation and Exception Relating to Pricing of Propane, Butane, and other Liquid Products by McCulloch Gas Processing Corporation," which requested an interpretation with respect to the applicability of certain Federal Energy Administration (formerly Federal Energy Office) price regulations to McCulloch Gas Processing Corporation (MGPC) and its activities. Our interpretation is set forth below, and we are transmitting a copy of this interpretation to the FEA Office of Exceptions and Appeals, with which MGPC has also filed a copy of its June 4 "Petition."

FACTS

The essential facts with respect to MGPC's interpretation request are that MGPC is a processor of "wet" natural gas which it purchases from various producers of natural gas. MGPC obtains from the natural gas, by its processing activities, various natural gas liquids including propane, butane and natural gasoline. MGPC sells the liquids to third parties and sells the remaining "dry" (residue) natural gas in interstate commerce subject to Federal Power Commission regulation. Part of the payment made by MGPC to the producers of the natural gas, from which these liquids are processed, is under contracts which call for payment to the producers of a percentage of the revenue obtained by MGPC in its sales of those liquids.

MGPC has requested an interpretation that its pricing of natural gas liquids is not subject to FEA regulation. MGPC has previously made similar requests to the Dallas and Denver Regional Offices of FEA. The FEA Denver Region has advised MGPC that it is subject to FEA regulation.

INTERPRETATION

Since the June 4, 1974 date of MGPC's request, the FEO on June 27, 1974 commenced its role as the Federal Energy Administration, pursuant to the provisions of the Federal Energy Administration Act of 1974 (39 F.R. 23185). However, no change has occurred in the FEO regulations, which are now the FEA regulations, which would affect MGPC's request.

All producers or processors of propane, butane and natural gasoline are subject to FEA price regulations, and have been considered to be within the scope of the petroleum price control program since its commencement in August 1973 by the Cost of Living Council. The Cost of Living Council, under the Economic Stabilization Act of 1970, as amended, had general authority to "stabilize prices" and the specific authority to allocate "petroleum products" (Pub. L. 92-210 and 93-28). In August, 1973, with the commencement of Phase IV of the Economic Stabilization Program, the Council developed regulations that applied to natural gas processors. On June 13, 1973, the Council had instituted a generally applicable 60 day price freeze (38 F.R. 15763, June 15, 1973). In August, the Council extended "the freeze on prices charged for crude petroleum, natural gas liquids, and refined petroleum products" (38 F.R. 21993, August 14, 1973). The Council then introduced its Phase IV price controls for the petroleum industry (6 CFR, Part 150, Subpart L, 38 F.R. 22536, August 22, 1973), which were effective as of August 15, 1973. The products covered under the regulations were described as:

a product described in the 1972 edition, Standard Industrial Classification Manual, Industry Code 1311 (except natural gas), 1321 or 2911. (6 CFR 150.352)

The Council excluded natural gas from its controls in recognition of the fact that natural gas prices are generally regulated by the Federal Power Commission. The products processed from natural gas were, however, specifically covered by the inclusion of SIC Code 1321 in the definition of covered products. SIC Code 1321 describes the production of liquid hydrocarbons from oil and gas field gases, and includes butane, propane and natural gas liquids. These same products, generated in a refinery process from crude oil are described in SIC Code 2911 as "Gases, liquified petroleum."

Although the language of SIC Code 1321 uses the term "production," and SIC Code 2911 uses the terms "refining," the Council for price regulation purposes used the single term "refining" to encompass both production under SIC Code 1321 and refining under SIC Code 2911. Thus, the Council, FEO and now FEA, have defined a "refiner" to include firms refining "liquid hydrocarbons from oil and gas field gases." To confirm this position, the Council issued a Question and Answer (CLC Release No. 467, Phase IV Q&A No. 18, November 30, 1973, Question No. 5) stating that natural gas liquids extracted from natural gas are subject to the regulations governing refiner's prices.

The Cost of Living Council Phase IV price controls for the petroleum industry have been continued in essentially their initial form to the present, and were in effect at the time the Congress considered and enacted the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, November 27, 1973) (EPAA), under the authority of which the FEA now administers the price control regulations. FEA has concluded that this authority includes authority over the prices of natural gas liquids, and that the price control regulations with respect to natural gas liquids were, therefore unaffected by the expiration on April 30, 1974, of the Economic Stabilization Act of 1970, as amended, the authority under which they were initially promulgated.

The products covered by the EPAA are "crude oil, residual fuel oil and refined petroleum products" (section 4(a) of the EPAA), with refined petroleum products defined as "gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils or diesel fuel," and LPG further defined as "propane and butane, but not ethane" (sections 3 (5), (6) of the EPAA). While the Congress addressed specifically "refined petroleum products," FEA believes this term to have been used by the Congress in the same sense that it was used by the Cost of Living Council, and to include both the "refining" of certain products from crude oil and the "production" of those products from natural gas. Indeed, Congressional concern was focused on the prices and supplies of butane and propane when the EPAA was enacted, and it cannot be concluded that such concern was limited to these products only as they are made from crude oil in a "refinery." Most of the volume of these products in fact, is attributable to natural gas processing, and to exclude this process from regulation would leave FEA unable to implement effectively a program for assuring supply and regulating prices of propane and butane, two of the most important of the natural gas liquids involved.

In this connection, it is worthy of note that the Conference Report on the EPAA states: By requiring that both allocations and prices be covered in the regulation required to be promulgated and implemented under section 4(a), Congress intends to force the Administration to rationalize and harmonize the objective of equitable allocation of fuels with the objectives of the Economic Stabilization Act. The committee wishes to emphasize that the pricing controls called for in this legislation may, in those circumstances where pricing controls established pursuant to other federal authority are consistent with the requirements and objective of this Act, merely conform those controls in the regulation to be promulgated under authority of section 4 of this Act. It is expressly contemplated, for example, that the price controls established by Phase IV under authority of the Economic Stabilization Act would continue in effect unless and until required to be modified by the price regulation required to carry out the purpose of this Act. As a matter of administrative convenience, the President may wish to continue to exercise federal pricing controls through the Cost of Living Council and may, pursuant to section 5(b), assign to that agency responsibility for administering the price controls called for in this Act.

The language of the statute under which FEA was established, the Federal Energy Administration Act of 1974 (Pub. L. 93-275), provides further support and insight into the scope of the controls program which FEA may implement. Section 5(b)(11) of that Act requires that in exercising price authority over propane, the FEA must provide "for equitable allocation of all component costs of producing propane gas." This language clearly indicates the scope of FEA authority is not limited to products "refined" from crude oil. The use of the word "producing" is parallel to the SIC Code 1321 language which has been used by the Council and FEA, which includes all methods for manufacturing propane, and which is applicable to the processing of liquid hydrocarbons from natural gas.

It is therefore our interpretation that the provisions of 10 CFR Part 212, are applicable to MGPC, which is a "refiner" as that term is defined in § 212.31, and which is subject to the regulatory authority of the Federal Energy Administration with respect to its operations in processing natural gas liquids from natural gas.

INTERPRETATION 1974—14

To: Exxon Co.

Date: August 2, 1974.

Rule Interpreted: § 212.91.

Code: GCW—PI—Five Percent Rule.

This is in response to your informal request for an interpretation as to the applicability of 10 CFR 212.91, et. seq., to the activities of Exxon Corporation in the U.S. Virgin Islands.

FACTS

As we understand the facts, the subsidiary of Exxon Corporation which sells covered products in the Virgin Islands acquires more than 5 percent of those products from a foreign subsidiary of Exxon Corporation.

INTERPRETATION

Our interpretation is that the subject activities of Exxon in the Virgin Islands are within the scope of FEA rules applicable to refiners.

The language of 10 CFR 212.91 which is involved in this matter states that an entity of a refiner, which is engaged in the business of purchase and resale of covered products, can qualify as a "reseller," rather than a refiner if it does not purchase more than 5 percent of the covered products it sells from the refiner, "including any entities which it (the refiner) directly or indirectly controls" and if the entity of the refiner has exercised exclusive price authority over its sales historically and consistently.

Our view of this language is that the phrase in quotes above plainly encompases any and all entities which the refiner controls, whether or not these entities are domestic corporations. The test of whether 5 percent or less of such covered products are purchased from entities uncontrolled by the refiner is not where the selling entity is located, but is simply whether the selling entity is directly or indirectly controlled by the refiner. We see no relevant reason for differentiating for this purpose between entities which might be incorporated or have their corporate headquarters or operations in a foreign country and entities which might be similarly situated in the United States.

Thus, a subsidiary of Exxon Corporation operating in the U.S. Virgin Islands which buys more than 5 percent of its covered products from a foreign seller which is controlled by that subsidiary's U.S. parent firm (consolidated and unconsolidated, directly or indirectly controlled), is a "refiner," and is required to price its products in accordance with the regulations governing refiners set forth in subpart E of Part 212, Title 10, Code of Federal Regulations.

INTERPRETATION 1974—15

To: Sky Harbor Air Services, Inc. and Atlas Aircraft Corp.

Date: August 8, 1974.

Rules Interpreted: FEA Ruling 1974-19, § 211.09.

Code: GCW—AI—Base Period Suppliers.

This is in response to your request for an interpretation of the Mandatory Petroleum Allocation Regulations to the effect that the supplier/purchaser provisions of the regulations do not apply to the Defense Fuel Supply Center (DFSC). Your request was made on behalf of Sky Harbor Air Services, Inc., and Atlas Aircraft Corporation (the companies).

We understand that neither Sky Harbor nor Atlas were suppliers of DFSC during 1972, although both companies have been successful bidders for DFSC supply contracts at other times. The companies therefore were not base period suppliers of DFSC.

Your request for an interpretation essentially questions whether the Mandatory Petroleum Allocation Regulations prevent DFSC from entertaining competitive bids for its fuel requirements and thereafter awarding contracts to suppliers other than its base period suppliers, such as the companies.

The companies urge that the laws and regulations which require competitive bids by DFSC for its procurements should not be preempted by FEA's regulations. This issue was addressed by FEA Ruling 1974-19 entitled "Competitive Bids: Supplier/Purchaser Relationships" (a copy of which is enclosed for your information).

The pertinent portion of Ruling 1974-19 provides as follows: The Mandatory allocation regulations in 10 CFR Part 211, provide no exemption for Federal, State or local governments * * *. The competitive bid requirements of the laws and ordinances (of such governments) * * * are superseded to the extent they are inconsistent with the allocation regulations.

Since DFSC is a wholesale purchaser-consumer under FEA's regulations, the portions of the ruling which discuss wholesale purchaser-consumers are pertinent to Sky Harbor and Atlas and should provide additional guidance to you. However, it is clear that 10 CFR 211.09 was intended to apply to DFSC and that DFSC must be supplied by its base period suppliers except as otherwise required or permitted by the Mandatory Petroleum Allocation Regulations or FEA order. The laws and regulations which require DFSC to entertain competitive bids for its fuel suppliers are superseded to the extent they are inconsisent with the supplier/purchaser provisions of FEA's regulations. Consequently, the interpretation requested by Sky Harbor and Atlas would be incorrect.

INTERPRETATION 1974—16

To: Amoco Oil Co. (Indiana).

Date: September 3, 1974.

Rules Interpreted: § 210.62(a), Ruling 1974-10.

Code: GCW—PI—Normal Business Practices.

This is in response to your letter of May 16, 1974, in which you requested an exception for Amoco Oil Company to permit it to implement, on a voluntary basis, a revised system for reimbursing retailer dealers for sales receipts from sales made to customers who used Amoco credit cards. We have concluded that the appropriate response to this request is the interpretation which is set forth herein.

FACTS

As we understand the facts, Amoco currently operates under a system whereby dealers may submit Amoco credit card sales receipts when they pay for gasoline purchased from Amoco, and receive credit for the amount of those sales receipts toward the payment for the gasoline.

The proposed new system, referred to as direct dealer mailing, requires dealers to mail Amoco credit card sales receipts directly to Amoco, which will then issue checks to the dealers in payment for those receipts. Under this system, dealers would no longer be able to use Amoco credit card sales receipts as a form of payment for gasoline purchased from Amoco. Amoco has requested an exception to permit the implementation of its proposed new system on a voluntary basis, with those dealers who chose not to use the credit card sales receipts as a form of payment for gasoline purchased from Amoco.

INTERPRETATION

As you know, under FEA price regulations, Amoco may not now discontinue accepting credit card sales receipts as payment for gasoline and, instead, require that the receipts be submitted to Amoco, with payment to the dealer for the credit card sales receipt to be made at a later date by check, because the May 15, 1973 price charged by Amoco included the acceptance of credit card sales receipts. Discontinuance of this practice would therefore constitute an impermissible increase in the May 15, 1973 price, because the cost of credit, for the amount of the credit card sales receipts between the time the receipts would be submitted to Amoco and the time payment from Amoco would be received by the dealer, would be a new cost incurred by the dealer in connection with obtaining gasoline from Amoco. (See FEO Ruling 1974-10, 39 FR 15140, May 1, 1974, "Changes in Credit Terms").

We have concluded, however, that the implementation of the direct dealer mailing credit card system, on a voluntary basis, is permissible under FEA regulations. This conclusion has been reached in light of the following considerations:

(a) FEA has been fully informed of the proposed change in credit practices;

(b) No dealer will incur the price increase described above, except if he voluntarily changes to the direct dealer mailing system;

(c) There are benefits to the dealer under the direct dealer mailing system which Amoco has described and which individual dealers may conclude adequately compensate for the price increase which they incur under the new system.

Thus, FEA has concluded that, as long as each dealer's right to continue to obtain the credit terms that were included in the May 15, 1973 price is properly maintained, it should not foreclose the implementation of an alternative system which other dealers may prefer. The FEA is not in a position to make an overall evaluation that the benefits conferred under the proposed alternate plan outweigh the cost involved in each and every situation. At the same time, however, the FEA does not want to preclude any dealer from making his own evaluation and concluding that the alternative plan is better for him. Thus, we believe that it would be an overly-rigid interpretation of FEA regulations to preclude each individual dealer from making its own judgment under these plans. We therefore conclude that the FEA regulations are adequately carried out, as long as the right of dealers to avail themselves of the May 15, 1973 credit terms is preserved.

INTERPRETATION 1974—17

To: Celanese Corp.

Date: September 4, 1974.

Rules Interpreted: §§ 211.10(b)(2), 211.11 (a), (c), 211.12(e)(3).

Code: GCW—AI—Allocation Entitlement, Supplier/Purchaser Relationship.

This is in response to your letter of April 2, 1974, on behalf of the Celanese Corporation requesting an interpretation of the Mandatory Petroleum Allocation Regulations. The interpretation concerns the respective rights and obligations of Celanese Corporation ("Celanese"), Exxon Company, U.S.A. ("Exxon"), Wanda Petroleum Company ("Wanda") and Coastal States Gas Producing Company ("Coastal"). As set forth in your request and your conferences with members of this office on May 23, and July 17, 1974, we understand the relevant facts to be as follows:

Until December 31, 1973, Celanese purchased propane from Exxon pursuant to an agreement which was for a twenty-year term with provisions to negotiate price terms before the commencement of each of the four five-year periods of the agreement. The parties agreed that if a revised price could not be negotiated before the end of the fourth year of any of the four five-year periods, the agreement would terminate at the end of such five-year period. The initial five-year term ended December 31, 1973. In November 1972, Celanese and Exxon failed to agree upon a revised price and it was agreed that the contract would terminate at the end of the initial term.

The propane purchased under the agreement was to be used by Celanese as a petrochemical feedstock at its petrochemical plant at Bishop, Texas, and was used for the intended purpose from the start of deliveries until February 2, 1973, at which time Celanese ceased operations at the Bishop plant. The propane actually used at this plant was not obtained directly from Exxon; rather, Exxon supplied the propane through an exchange agreement with Wanda, pursuant to which Wanda received propane from Exxon at Clear Lake, Texas and in turn released propane on Exxon's behalf to Celanese in Bishop to meet Exxon's obligations to Celanese.

After the Bishop plant was closed in February 1973, Celanese agreed to sell the propane it was obligated to purchase from Exxon to Wanda and Coastal for the remainder of the contract term. All of the propane which Celanese was required to purchase from February 1973 until the expiration of the contract on December 31, 1973, was resold to Wanda and Coastal. No contracts were signed between Wanda and Celanese or between Coastal and Celanese for additional sales of propane beyond December 31, 1973. Also, Celanese did not enter into any contracts after February 2, 1973, with other suppliers for quantities of propane for resale to Wanda, Coastal or other purchasers.

The "base period" which forms the basis for determining entitlements to propane under the Mandatory Petroleum Allocation Regulations is defined at § 211.82 of the regulations as follows:

"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter except that for the period June 1, 1974, through June 30, 1974, purchasers of propane may, at their option, use the period June 1, 1972 through June 30, 1972, as the base period.

CELANESE AS A WHOLESALE PURCHASER-CONSUMER

Between April 1, 1972 and February 2, 1973, of the base periods, Celanese was a wholesale purchaser-consumer of propane, using product as feedstock for its then operating petrochemical plant in Bishop, Texas. On February 2, 1973, this plant ceased to operate. Thus, the first issue for consideration is whether Celanese is entitled to an allocation of propane for any period corresponding to a base period during which it used propane as a wholesale purchaser-consumer of propane as a petrochemical feedstock.

Section 211.11 of the regulations provides in pertinent part as follows:

§ 211.11 *Basis for purchaser's entitlement to allocation.* (a) *Basis of entitlement.* A wholesale purchaser or an end-user entitled to an allocation level shall receive an allocation based upon its conduct of an ongoing business or maintenance of an established end use.

* * * * *

(c) *Loss of allocation entitlement for going out of business.* Wholesale purchasers and end-users which have gone out of business shall not be eligible for allocations based on volumes received or purchases made prior to going out of business.

* * * * *

It is our conclusion that Celanese is not entitled to an allocation of propane for any period corresponding to the period April 1, 1972 through February 2, 1973, of the base periods for propane, since as of the latter date, it ceased to conduct an ongoing business with an established end-use for propane. Thus, on a calendar basis, Celanese is not entitled to an allocation of propane from Exxon for the months of January and April through December. With respect to the exchange agreement between Wanda and Exxon, § 211.10(b)(2)(ii) provides neither Exxon nor Wanda shall include the exchange in their supply obligations to one another except the "difference between the total amounts received under exchange agreements and the total amounts supplied to customers through exchange agreements."

CELANESE AS A WHOLESALE PURCHASER-RESELLER

The second issue for consideration is whether Celanese is entitled to an allocation of propane during any period corresponding to a base period during which it acted as a wholesale purchaser-reseller. This would be for any period corresponding to February 1973 through March 31, 1973.

Between February 3, 1973 and March 31, 1973, Celanese was a wholesale purchaser-reseller of propane, since it purchased propane and resold it to other purchasers without substantially changing its form. "Wholesale purchaser-reseller" is defined at 10 CFR 211.51. However, with the termination of the Exxon/Celanese agreement on December 31, 1973, Celanese no longer had propane to resell and consequently went out of business as a wholesale purchaser-reseller of propane.

It is significant that Celanese's contracts with Wanda and Coastal for the resale of propane only covered the period when Celanese was obligated to accept propane from Exxon and Celanese itself had no end-use for the propane. In fact, Celanese made no arrangements to purchase propane after December 31, 1973, so that it could continue to resell to Wanda and Coastal. It is apparent that but for the implementation of the Mandatory Petroleum Allocation Program in January 1974, Celanese would not have anticipated that it should or could continue to resell propane to Wanda and Coastal.

For these reasons, it is our conclusion that Celanese went out of business as a wholesale purchaser-reseller of propane on December 31, 1973 within the meaning of 10 CFR 211.11(c). Therefore, Celanese is not entitled to an allocation of propane from Exxon based upon the period February 3, 1973 through March 31, 1973.

WANDA AND COASTAL

The final issue for consideration is whether Exxon has any supply obligation for propane under the regulations to Wanda or Coastal for the period during which Celanese acted as a wholesale purchaser-reseller of propane.

In the period February 3 to March 31, 1973, during which Celanese acted as a wholesale purchaser-reseller, Wanda and Coastal had no direct supplier/purchaser relationship with Exxon; rather, their supplier/purchaser relationship was with Celanese. See 10 CFR 211.10(b)(2). A wholesale purchaser-reseller's supplier has no supply obligation to the wholesale purchaser-reseller's customers. Thus, it is our conclusion that Exxon has no supply obligation for propane to Wanda or to Coastal under the regulations and that Celanese is the base period supplier of Wanda and Coastal for this period of time. This means that Celanese has a supply obligation to Wanda and Coastal for February and March of any period corresponding to a base period. However, to the extent that Celanese does not have an allocable supply of propane for distribution to Wanda and Coastal, its allocation fraction will be zero and it will distribute no propane to either Wanda or Coastal.

Wanda and Coastal may apply for the assignment of a new base period supplier and a base period volume pursuant to § 211.12(e)(3) for February and March since its base period supplier Celanese, no longer has adequate suppliers to supply them. Requests for assignment in the case of propane are handled by the FEA Regional Offices pursuant to the procedures set forth in 10 CFR 205.30 et seq. The appropriate Regional Office is located at 212 North Saint Paul Street, Dallas, Texas, 75201.

INTERPRETATION 1974—18

To: Williams Energy Co.

Date: September 11, 1974.

Rule Interpreted: § 211.9(a)(2).

Code: GCW—AI—Supplier/Purchaser Relationships.

This is in response to your request of June 7, 1974 (supplemented by letter dated July 8, 1974) for a ruling with respect to mutual termination of supplier/purchaser relationships under the Mandatory Petroleum Allocation Regulations. Your request was made on behalf of Williams Energy Company ("Williams") and concerned the termination of supplier/purchaser relationships established by FEA regulations between Williams and certain of its wholesale purchaser customers. This interpretation is not in response to other requests made by Williams with respect to supplier/purchaser relationships between Ashland Oil Company and certain of its propane customers.

FACTS

During the base period for propane, Williams was the supplier of propane to certain wholesale purchasers which are entitled to allocations of propane under the Mandatory Petroleum Allocation Regulations. In order to service these wholesale purchasers, Williams needs to determine whether these purchasers intend to purchase their entitlements under the Mandatory Petroleum Allocation Program for the next year. Consequently, Williams has written its wholesale purchasers requesting that they notify Williams prior to July 1, 1974 of their intent to purchase their entitlements and the actual quantities of such entitlements they will require on a month-to-month basis over the next year. In its letter to these purchasers, Williams stated that it would consider the failure to respond to its request by July 1, 1974 as a mutual termination of the supplier/purchaser relationships which may exist between those purchasers and Williams. By letter to FEA dated July 8, 1974, Williams provided copies of the responses of certain purchasers which replied to its request and a list of those purchasers which failed to respond to its request by July 1, 1974. Williams' July 8 letter requested a ruling that the responses attached to its letter constitute a termination of the supplier/purchaser relationships between Williams and those purchasers and that the supplier/purchaser relationships between Williams and those purchasers which failed to reply to Williams' request by July 1, 1974 are terminated.

APPLICABLE REGULATIONS

The pertinent provisions of the Mandatory Petroleum Allocation Regulations are set forth at 10 CFR 211.9 and provide as follows:

(a) *Supplier/wholesale purchaser relationship.* Each supplier of an allocated product shall supply all wholesale purchasers-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

(2) (i) Unless otherwise provided in this part or directed by FEO the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEO.

(ii) Unless otherwise provided in this Part or directed by FEO, the supplier/wholesale purchaser-consumer relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be revised or otherwise terminated except that any such relationship may be terminated by the mutual consent of both parties.

INTERPRETATION

WHOLESALE PURCHASER-RESELLERS

With respect to wholesale purchaser-resellers, § 211.9(a) (2) (i) clearly does not permit a mutual termination or waiver of the supplier/purchaser relationships required by FEA regulations. We would also note that the regulations do not require a wholesale purchaser-reseller to purchase, or to disclose its intention to purchase, its entitlement for any period corresponding to a base period.

The termination of a supplier/purchaser relationship with a wholesale purchaser-reseller may only be accomplished by FEA. This would be accomplished on a case-by-case basis and would involve proper notice to and an opportunity to comment by each wholesale purchaser-reseller. The wholesale purchaser-reseller must clearly understand that FEA has been requested to terminate its right to an entitlement under FEA's regulations from its base period supplier, and that such termination may leave it without a base period supplier.

We would also observe that the response of Clarendon Gas Company (which we assume to be a wholesale purchaser-reseller) enclosed with your July 16, 1974 letter does not clearly indicate an intention to terminate its supplier/purchaser relationship with Williams, only a current intention not to purchase its entitlements. The response of Herring Gas Service, Inc. (which we also assume to be a wholesale purchaser-reseller) is as tentative as Clarendon's. We assume that Hercules, Inc. and the Greenville Utilities Commission are wholesale purchaser-consumers. Therefore, their responses will be discussed elsewhere in this letter.

We recognize that it is not satisfactory for Williams to have an obligation to provide propane to these purchasers without knowing if they will demand their right to such supplies in the future. In such situations, we recommend that Williams (as it has done in these cases) request the appropriate office of FEA to terminate such relationships. FEA should then contact such wholesale purchaser-resellers and determine whether termination should be ordered. However, we caution that such requests will be reviewed on an individual basis and that terminations will not be granted solely because a wholesale purchaser-reseller is not purchasing its entitlements from its base period supplier.

In light of the foregoing, we cannot provide an interpretation that FEA has authorized the termination of the supplier/purchaser relationship between Williams and the aforementioned wholesale purchasers. Williams may, of course, pursue the matter before FEA as suggested above.

WHOLESALE PURCHASER-CONSUMERS

With respect to wholesale purchaser-consumers, § 211.9(a) (2) (ii) provides that the supplier/purchaser relationship can be mutually terminated. However, we do not think that a base period supplier could "mutually terminate" a relationship with a wholesale purchaser-consumer by requiring that the wholesale purchaser-consumer respond to a request to terminate by a particular date. A "mutual termination" would require a clearly expressed agreement by the wholesale purchaser-consumer which indicated that it is relinquishing its right to an entitlement under FEA's regulations. We would be reluctant to conclude that failure to respond to such a request warrants an agreement to terminate rights under the allocation program. Therefore, we conclude that the supplier/purchaser relationships between Williams and those base period wholesale purchasers-consumers which failed to provide purchase information by July 1, 1974 have not been mutually terminated.

With respect to the response of Hercules, Inc. (which we assume to be a wholesale purchaser-consumer), we do not interpret its response to be an agreement to a mutual termination of any relationship with Williams. At best Hercules states that it is not aware of any relationship with Williams, but that, in any event, Hercules will not purchase its entitlement from Williams. As previously indicated a statement by a wholesale purchaser-consumer that it does not intend to purchase its entitlement does not constitute a mutual termination of the supplier/purchaser relationship. It may mean that Hercules will not purchase its entitlement for this July but that next July it may wish to, if there is an allocation program in effect.

Finally, the response of the Greenville Utilities Commission indicates that it will mutually terminate its relationship with Williams if FEA assigns another supplier to Greenville. Clearly, this is not an agreement to terminate Greenville's right to an entitlement. This matter, we understand from Greenville's response, is before the FEA for consideration. Williams should pursue the matter with Greenville at such time as Greenville obtains such a new supplier.

INTERPRETATION 1974—19

To: Swann Oil, Inc.

Date: October 16, 1974.

Rules Interpreted: §§ 211.9, 211.10(g), 211.166.

Code: GCW—AI—Supplier/Purchaser Relationships, Method of Allocation, Surplus Product.

Your letter of June 11, 1974 on behalf of Swann Oil, Incorporated ("Swann") requested an interpretation of certain provisions of the Mandatory Petroleum Allocation Regulations concerning supplier/purchaser relationships for utilities.

FACTS

Swann is the base period supplier of residual fuel oil for the City of Vineland ("Vineland") which operates an electric utility. As a utility, Vineland is allocated residual fuel oil by its base period suppliers pursuant to the National Utility Residual Fuel Oil Allocation Program of the Federal Energy Administration.

For June 1974, FEA's utility notice designated Swann as Vineland's base period supplier for Vineland's allocation of 67,200 bbls. of residual fuel oil (39 FR 18050, May 22, 1974). By letter dated May 23, 1974, Swann advised Vineland that Swann would supply Vineland with the 67,200 bbls. of residual fuel oil. Vineland, however, notified Swann that it would not purchase its residual fuel oil entitlement from Swann for June 1974. Instead, Vineland purchased residual fuel oil from another supplier for delivery and use in June.

The other supplier certified that it had surplus product to distribute and had complied with the provisions of 10 CFR 211.10(g). This supplier was not a base period supplier to Vineland.

ISSUE

The issue presented for consideration is whether a utility which is allocated residual fuel oil from its base period supplier pursuant to the National Utility Residual Fuel Oil Allocation Program may decline to purchase its allocation from such supplier, and, instead, purchase residual fuel oil from a non-base period supplier which has surplus product for sale under 10 CFR 211.10(g).

INTERPRETATION

The supplier/purchaser relationship between Swann and Vineland is defined by 10 CFR 211.9 and 211.166 which provide in pertinent part:

§ 211.9 *Supplier/purchaser relationships.* (a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

* * * * *

(2) (ii) Unless otherwise provided in this part or directed by FEA the supplier/wholesale purchaser-consumer relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be revised or otherwise terminated except that any such relationship may be terminated by the mutual consent of both parties.

* * * * *

§ 211.166 *Method of allocation.* (d) (2) For purposes of calculating the allocation of residual fuel oil to utilities for delivery in every month after February 1974—

(i) The FEA will determine the amount of residual fuel oil allocated for delivery to each utility for a single month or several months at a time. The volume of residual fuel allocated to each utility for each month shall be based upon the supply available for utilities, the considerations specified in § 211.163(b) (3) and other relevant considerations.

(ii) Following the determination in paragraph (d) (2) (i) of this section, the FEA will publish the amounts of residual fuel oil allocated to each utility for delivery for a single month or several months at a time, and the amounts required to be supplied for each month by each supplier.

These regulations impose an obligation on base period suppliers, such as Swann, to allocate residual fuel oil to utilities in accordance with FEA's monthly notice of allocation to utilities. This obligation may be terminated by mutual agreement. How-

ever, there is no indication that Vineland and Swann have reached such an agreement.

A wholesale purchaser-consumer, such as Vineland, has no entitlement to residual fuel oil from anyone other than its base period supplier. Although the regulations provide for an entitlement, they do not obligate a utility to purchase its monthly allocation. In essence, the regulations insure that a purchaser will have supplies if it is willing to purchase them. A purchaser's failure to purchase entitlements under the regulations in one month, without more, does not terminate its right to purchase in a subsequent month. In addition, a wholesale purchaser-consumer's failure to purchase its entitlement during a period corresponding to a base period does not prevent its purchasing surplus product as provided by § 211.10(g).

Section 211.10(g)(7) of the Mandatory Petroleum Allocation Regulations reads as follows:

(7) *Purchaser's rights.* Notwithstanding the provisions of § 211.12 any wholesale purchaser or end-user may purchase allocated product from any supplier which certified that it has surplus product to distribute and that it has complied with the provisions of § 211.10(g).

The provisions of 10 CFR 211.166(d) establishing the method of allocation of residual fuel oil to utilities contain no restrictions which would prevent a utility from purchasing surplus product pursuant to § 211.10(g). Therefore, it is our opinion that Vineland could forego its allocation of residual fuel oil from Swann for June, 1974 and could purchase surplus product from any supplier which has conformed to the provisions of 10 CFR 211.10(g).

INTERPRETATION 1974—20

To: Petro US, Inc.

Date: November 4, 1974.

Rules Interpreted: Subpart D, § 212.83.

Code: GCW—PI—Definition of Producer, Reclamation of Waste Crude Oil, Transfer Pricing.

Your letter of August 7, 1974 to Mr. Mel Goldstein, Office of Exceptions and Appeals, requesting an exception from the price regulations of the Federal Energy Administration (FEA) was referred to this office after it was decided that an initial interpretation regarding the status of Petro Zwab, Inc. is necessary. (10 CFR 205.50) A copy of this interpretation is being forwarded to Mr. Richard Tedrow of the Office of Exceptions and Appeals, for further, appropriate action concerning other activities described in your letter. Our interpretation is set forth below.

FACTS

As disclosed by information submitted by you, Petro Zwab, Inc. is to engage in a petroleum processing operation intended to increase product supplies from sources of crude oil not generally utilized. Petro Zwab, Inc. will gather certain distressed crude petroleum from sources which include spilled oil, certain transport and storage cleaning, production slops, discarded marine equipment, and other sources. In such cases of crude petroleum recovery, the actual origin of the crude oil is often unknowable to Petro Zwab, Inc. Petro Zwab, Inc. did not engage in such activity during 1972, and has been recently formed in order to supply this recovered material to Petro US, Inc. as feedstock in its refining operation.

INTERPRETATION

Subpart D of the price regulations of the FEA (10 CFR 212.71 et seq.) applies to producers of crude petroleum. Based upon the facts presented in your letter, it is our interpretation that the activities of Petro Zwab, Inc. in recovering crude petroleum, as described, are properly regarded as "producer" activities, even though the production occurs as a result of reclamation processes.

The purpose of FEA price regulations which permit a producer to sell "new" crude petroleum at a price not subject to the ceiling price rule of § 212.73 is to encourage increased volumes of crude petroleum. Thus, even though Petro Zwab, Inc. does not recover this crude petroleum from reservoirs and deposits in the earth, it proposes to engage in activities and apply techniques to yield usable crude oil previously regarded as unrecoverable. In this way, Petro Zwab, Inc., in its reclamation of the contaminated or waste crude oil, satisfies an important purpose of the FEA regulations, and therefore the reclaimed crude oil not previously recovered can properly be considered "new" crude petroleum not subject to the ceiling price rules for sales by producers.

FEA regulations governing the cost of crude oil transferred between affiliated entities would apply to transfers of reclaimed crude oil by Petro Zwab, Inc. to Petro US, Inc., and Petro US, Inc., would be subject to the provisions of 10 CFR 212.83 concerning the measurement of domestic crude oil costs which could be used in the calculation of base prices.

INTERPRETATION 1974—21

To: The Flying Tiger Line, Inc. and Tesoro-Alaskan Petroleum Corp.

Date: November 15, 1974.

Rule Interpreted: § 211.145(d)(1).

Code: GCW—AI—Designation of Base Period Supplier.

This interpretation is issued in response to agreement reached among counsel for The Flying Tiger Line, Inc. ("Tiger"), and Tesoro-Alaskan Petroleum Corporation ("Tesoro"), with the concurrence of United States District Court Judge John Lewis Smith during a conference held in Judge Smith's chambers on November 11, 1974. Both Tiger and Tesoro have agreed that they shall waive their rights to administrative appeal of the interpretation prior to submission of the matter to Judge Smith for his review. Judge Smith has indicated that under the circumstances of this case, he shall consider all parties' administrative remedies to have been exhausted with respect to the issues discussed herein, and FEA accepts this determination.

FACTS

Based on the submissions, the following facts are assumed for the purposes of this interpretation: Tesoro-Alaskan Petroleum Corporation ("Tesoro") is a refiner and a supplier of aviation fuel. The Flying Tiger Line, Inc. ("Tiger") is a civil air carrier. N&H Associates ("N&H") is a wholesale purchaser-reseller/supplier of aviation fuel.

Tesoro and N&H entered into a contract dated March 14, 1973 for the sale and delivery of aviation fuel to N&H by Tesoro in specified amounts at specified prices (the "Tesoro contract"). The Tesoro contract has subsequently been modified several times. The term of the March 14, 1973 contract was for three years commencing April 1, 1973, with an option for renewal for an additional three years.

The Tesoro contract was supplemented by a letter of amendment signed by Tesoro on July 2, 1973 and accepted by N&H July 5, 1973. The letter, which incorporated by reference an April 25, 1973 letter from Tesoro to N&H, established new price and volume terms.

On August 16, 1973, N&H and Tiger entered into a contract (the "Tiger contract") whereby N&H agreed to supply Tiger with aviation fuel which N&H, in turn, obtained from Tesoro under the Tesoro contract.

Associated with the Tiger contract is a one-page document generally described by the parties as a "guaranty." The guaranty consists of a representation by Tesoro that "In consideration of the foregoing agreement between * * * (Tiger) * * * and * * * (N&H) * * * Tesoro hereby guarantees that it* will provide N&H with sufficient Tesoro jet fuel * * * to meet * * * (Tiger's) * * * estimated maximum gallonage requirements * * * set forth in paragraph 3 of the foregoing agreement." The asterisk therein refers to a footnote incorporating by reference the terms of the Tesoro contract, as modified by the July 2, 1973 letter of amendment. The guarantee was initialed by Tiger's representative on September 14, 1973.

On April 10, 1974, Tiger purchased N&H in its entirety, and N&H became a wholly-owned subsidiary of Tiger. The only business of N&H now consists of providing aviation fuel to Tiger including into-plane delivery thereof to Tiger.

N&H commenced delivery of aviation fuel to Tiger on January 1974 under the Tiger contract. Delivery was subsequently terminated pursuant to the mandatory allocation program since N&H was not Tiger's 1972 base period supplier of aviation fuels. Further, Tesoro had no obligation to supply N&H since Tesoro was not a 1972 base period supplier of N&H. Currently, Tiger's base period supplier is a firm other than Tesoro or N&H.

It is assumed, however, that the Tesoro contract between Tesoro and N&H, and the Tiger contract between Tiger and N&H and the guarantee are in force and effect but for the operation of FEA regulations, which require other supplier/purchaser relationships.

On October 24, 1974, by telex, Tiger, pursuant to § 211.145(d)(1), as amended, 39 FR 39768 (October 25, 1974), purported to designate Tesoro as its base period supplier. Section 211.145(d)(1) permits civil air carriers to designate as their base period supplier, "any supplier which had entered into a contract with that carrier prior to November 1, 1973 for the purchase of aviation fuel * * *." But for a valid designation pursuant to § 211.145(d)(1) or an assignment by FEA, Tesoro would not be a base period supplier of Tiger.

By a telex dated October 25, 1974, Tesoro refused to supply Tiger, contending that it "does not consider that it is a supplier of a civil air carrier pursuant to a contract with such carrier for the purchase of aviation fuels entered into prior to November 1, 1973." Tesoro contended that while "a contract exists between Tesoro-Alaskan and N&H Associates, Inc., however, no contract exists between Tesoro-Alaskan and the Flying Tiger Lines, Inc."

ISSUE

Is Tesoro a base period supplier of Tiger by reason of an effective designation pursuant to § 211.145(d)(1)?

INTERPRETATION

Section 211.145(d)(1) provides in pertinent part that "any civil air carrier may designate as a base period supplier, any supplier which had entered into a contract with that carrier prior to November 1, 1973 for the purchase of aviation fuels * * *." Section 211.145(d)(1) imposes other conditions which must exist for an effective designation to be made, but which are not relevant for the purposes of this interpretation which assumes that those conditions exist.

The basic issue, therefore, is whether Tesoro entered into a contract with Tiger prior to November 1, 1973. If the Tiger contract, the Tesoro contract and the guaranty when viewed together or separately constitute a contract between Tiger and Tesoro then Tiger can designate Tesoro as its base period supplier pursuant to § 211.145(d). If, on the other hand, the Tiger contract, the Tesoro contract and the guaranty when viewed together or separately do not constitute a contract between Tiger and Tesoro, Tiger cannot designate Tesoro as its base period supplier pursuant to § 211.145(d).

NO CONTRACT EXISTED BETWEEN TESORO AND TIGER

If we assume that the Tiger contract, the Tesoro contract and the guaranty when viewed separately or together did not constitute a contract between Tiger and Tesoro, then Tiger cannot designate Tesoro as its base period supplier under § 211.145(d). Thus, under this assumption, there is no question that if Tiger had not acquired N&H in April, 1974 that Tiger as a civil air carrier could designate N&H as its base period supplier pursuant to § 211.145(d) since the Tiger contract with N&H was entered into prior to November 1, 1973. However, in these circumstances, the regulations do not provide a mechanism for N&H, in turn, to designate Tesoro as its base period supplier since N&H would be a wholesale purchaser-reseller and would not be a civil air carrier. If Tiger designates N&H as a base period supplier, Tesoro would be required to supply N&H only if an assignment by FEA pursuant to § 211.12(e) is made or if an exception to FEA's regulations based upon a serious hardship or gross inequity were to be granted.

Thus, the basic issue under this assumption would be whether Tiger's acquisition of N&H would provide a basis for its designation of Tesoro as a base period supplier pursuant to § 211.145(d). Under this assumption, Tesoro did not enter into a contract with a civil air carrier prior to November 1, 1973, but rather with a wholesale purchaser-reseller. Tiger thus could not designate Tesoro as its base period supplier. The fact that N&H has subsequently been acquired by Tiger does not alter N&H's status of solely being a wholesale purchaser-reseller prior to November 1, 1973.

The purpose of § 211.145(d) is to provide a different basis for supplier/purchaser relationships between civil air carriers and suppliers than their 1972 supplier/purchaser relationships which would otherwise obtain and thereby alleviate the effects of FEA's regulations upon those firms which made substantial changes in their supplier/purchaser relationship after 1972. FEA assumed that suppliers designated under § 211.145(d) would have an adequate source of supply for civil air carriers which designate them as base period suppliers pursuant to § 211.145 (d). The feasibility of this rule, then, rests on the assumption that suppliers such as N&H had base period suppliers and would be able to meet their contract obligations following a § 211.145(d) designation. However, since N&H does not have a base period supplier, Tiger is prevented from effectively exercising its rights under § 211.145(d).

FEA did not intend when it adopted § 211.145(d) to treat wholesale purchaser-resellers acquired by civil air carriers subsequent to November 1, 1973 as if they were civil air carriers prior to November 1, 1973. That interpretation would only serve to encourage possible acquisition of resellers like N&H by carriers unrelated to that reseller in order to gain the benefits of the rule for a carrier which would otherwise not be entitled to those benefits. Any such result would thus clearly circumvent the intent of the rule.

Since Tiger acquired N&H prior to the adoption of § 211.145(d), it obviously did not acquire N&H in order to circumvent the intent of the rule. However, the logic of determining the status of an entity as of a date prior to November 1, 1973 rather than at the present time for purposes of this rule must also dictate the result in this case.

Practical reasons dictated limiting designation under § 211.145(d) to air carriers. In order to make the provision immediately effective, FEA endeavored to insure that designation be made only where direct supply could be easily arranged and where no complicated disputes over supply arrangements would develop. Thus, it provided for designation only by air carriers which had pre-existing contracts. By contrast, § 211.145(c), for which two months notice was given prior to effectiveness, allows for designation by any wholesale purchaser. Designations under § 211.145(c) must be made one month in advance, allowing time to establish supply channels.

Finally, we would also note in connection with an assumption that no contract exists between Tiger and Tesoro that under § 211.145(c) (1) for periods corresponding to base periods commencing after December 31, 1974, Tiger may unilaterally terminate its relationships with its current base period supplier. If Tiger were to do so, it would be our opinion that under the provisions of § 211.145(c) (2), Tiger, as a wholesale purchaser, could "implement mutually acceptable arrangements with any supplier of aviation fuel * * *." Provided that the Tesoro contract, the Tiger contract and the guaranty are otherwise valid and enforceable but for FEA's regulations and the other preconditions are met, it is our opinion that such contracts are mutual arrangements which may be made or implemented under § 211.145(c) (2). Thus, for periods after December 31, 1974, Tiger can accomplish the same results as contemplated by § 211.145(d). Such designation may be made at any time hereafter in accordance with § 211.145(c), but not to be effective until a period corresponding to a base period commencing after December 31, 1974.

A CONTRACT DID EXIST BETWEEN TIGER AND TESORO

As previously noted, it may be that the Tiger contract, the Tesoro contract and the guaranty constituted a contract between Tiger and Tesoro for the purchase of aviation fuels prior to November 1, 1973. If such a finding were made, then Tiger could designate Tesoro as its base period supplier pursuant to § 211.145(d).

We have not expressed an opinion, however, as to whether a contract was entered into between Tiger and Tesoro prior to November 1, 1973 for the purchase of aviation fuels since we consider that a question for resolution in the proceeding before Judge Smith. Our discussion therefore has been limited to the results which could follow such a determination.

INTERPRETATION 1974—22

To: Darrell Jackson.

Date: December 2, 1974.

Rules Interpreted: § 212.54 (formerly § 210.-32), EPAA § 4(c) (2).

Code: GCW—PI—Stripper Well Lease Exemption, Unitization, Definition of Property, Average Daily Production.

This is in response to your June 20, 1974 request for an interpretation concerning the applicability of 10 CFR 210.32 (the stripper well lease exemption of the FEA Mandatory Petroleum Price and Allocation Regulations), to the production of domestic crude petroleum which is attributed to leases owned by you and subject to the "Unit Agreement, Shafter Lake San Andres Unit, Andrews County, Texas." (Unit Agreement.) This request was initially submitted to the Cost of Living Council on January 16, 1974. I regret the delay which occurred in responding to your request.

FACTS

As disclosed by the information submitted by you, you are the owner of two oil, gas and mineral leases, known as the Armstrong Lease and the Armstrong E Lease. These leases are subject to the Unit Agreement, which became effective July 1, 1967.

Production of crude petroleum during the calendar year 1973 from the Unit Area and subject to the Unit Agreement totalled 1,207,772 barrels. The Unit Area contains 282 wells. The average production under the Unit Agreement in calendar year 1973 was therefore 11.73 barrels per well per day.

The oil allocated under the Unit Agreement for calendar year 1973 to your Armstrong Lease was 1,334 barrels, and to your Armstrong E Lease was 1,189 barrels. You state that each of your leases contains one well, and that the production from your leases in calendar year 1973 was therefore 3.66 barrels per well per day for the Armstrong Lease and 3.26 barrels of oil per well per day for the Armstrong E Lease.

You have requested an interpretation that the oil allocated to your leases under the Unit Agreement is exempt from FEA Mandatory Petroleum Price Regulations pursuant to the exemption that is afforded to the first sale of domestic crude petroleum produced from a stripper well lease. The same exemption, to which your request refers, was set forth in § 150.54(s) of the Cost of Living Council price regulations, and is currently set forth in § 210.32 of the FEA regulations.

INTERPRETATION

Section 210.32 of the FEA regulations states, in paragraph (a), that: The first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids produced from any stripper well lease is exempt from (the Mandatory Price and Allocation Regulations).

A stripper well lease is defined in § 210.32 (b), as

* * * a "property" whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar year.

A "property" is, in turn, also defined in § 210.32(b) as

The right which arises from a lease in existence in 1972 or from a fee interest to produce domestic crude petroleum in existence in 1972 and is coextensive with that property used in section 212 for purposes of determining "base production level."

"Average daily production" is also defined in § 210.32(b), in pertinent part, to mean .

The qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar year, divided by a number equal to the number of days in that year times the number of wells which produced crude petroleum and petroleum condensates, including natural gas liquids, from that property in that year.

The issue raised by your request for interpretation is whether, in determining "average daily production" for purposes of the stripper well lease exemption, one looks to the Unit Area as a "property" or to each of the individual leases, which have been com-

bined under the Unit Agreement. Our conclusion is that the entire Unit Area subject to the Unit Agreement constitutes the "property" for purposes of determining the "average daily production".

This conclusion flows from the fact that an essential element for purposes of computing average daily per well production is "the number of wells which produce crude petroleum * * * from that property in that year". Under the Unit Agreement the location of producing wells with respect to individual leases cannot be determined, and the only number of producing wells that can be taken into account for this computation is with respect to the entire Unit Area.

The purpose of the Unit Agreement is "to conduct a secondary recovery, pressure maintenance, or other recovery program" * * *. (Introduction to the Unit Agreement.) To that end, the Unit Agreement provides in § 3.1 that "operations may be conducted as if the Unitized Formation had been included in a single lease * * *." Section 3.4 of the Unit Agreement further provides that

"[o]perations, including drilling operations, conducted with respect to the Unitized Formation on any part of the Unit Area, or production from any part of the Unitized Formation, * * * shall be considered as operations upon or production from each Tract, * * * just as if such operations had been conducted and a well had been drilled on and was producing from each Tract."

Thus, under the Unit Agreement, it is no longer possible to ascribe rights or make determinations based on whether a producing well is physically located on the area covered by a particular lease, since all production is considered to take place on all leases covered by the Unit Agreement. Typically, in methods of secondary recovery or pressure maintenance, which the Unit Agreement is designated to permit, a number of producing wells are closed in or are used for injection, and are therefore no longer used for production.

The determination of average daily production based upon physical location of producing wells with respect to particular leases would therefore be arbitrary and contrary to the terms of the Unit Agreement, since only those owners which retained production wells physically located on their lease could possibly calculate a per well production figure for purposes of the stripper well exemption, whereas those owners whose leases contained former production wells that were closed in or used for injection could not possibly claim a stripper well exemption. This point is underscored by § 6.1 of the Unit Agreement, which provides that oil produced under the Unit Agreement is allocated to leases in accordance with specified participation percentages, without regard to whether such amounts allocated are more or less than the actual production "from the well or wells, if any, on such Tract * * *"

Section 6.2 of the Unit Agreement provides that

"[i]f the participation of any Oil and Gas Rights * * * depends on the average production per well or the average pipeline runs per well on any Tract for any specified period, such average per-well production or such average per-well pipeline runs shall be determined from and after the effective date (of the Unit Agreement) by dividing the quantity of (oil) allocated to such Tract by the number of wells located thereon which are completed in the Unitized Formation as of the effective date (of the Unit Agreement)."

This provision of the Unit Agreement cannot serve as a basis for determining the number of wells to be counted in computing average daily per well production, since it relates to wells completed as of July 1, 1967, the effective date of the Unit Agreement, whereas the definition of average daily production permits only the number of wells "which produced crude petroleum * * * from that property in that (the preceding calendar) year" to be taken into account.

The FEA is aware that, as you suggested in your request, the existence of the stripper well lease exemption, which is required under § 4(e)(2) of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), does serve as a disincentive to secondary recovery methods, insofar as those methods typically involve a decrease in the number of producing wells and therefore a corresponding increase in the average number of barrels of oil produced per well. This disincentive, however, operates not only with respect to possible unitization agreements, but affects in like manner a single lease which could be converted from primary to secondary recovery methods, but which would result in an increase in per well production to a level in excess of 10 barrels per day.

The FEA is currently considering whether, and how, its regulations should be amended in order to overcome this disincentive, and thereby facilitate secondary recovery (and unitization agreements intended to promote secondary recovery). It should be noted, however, that the stripper well lease exemption was intended to ensure that wells producing at low production levels be continued in operation, rather than be shut in because of high operating costs in relation to the volume produced. Since the Unit Agreement that covers your leases was effective July 1, 1967, long before the stripper well lease exemption was adopted, it would not appear that further price incentive could be justified as necessary to facilitate unitization or to insure that production under the Unit Agreement is sustained.

INTERPRETATION 1974—23

To: Pru Lease, Inc.

Date: December 6, 1974.

Rule Interpreted: § 212.111.

Code: GCW—PI—New Item Rule.

Your letter of November 19, 1974, submitted to the Federal Energy Administration (FEA) on behalf of the Pru Fuel and Supply Division of Pru Lease, Inc. ("Pru Fuel") requested an interpretation of the effect upon certain pending transactions described herein of § 212.111 of the FEA Mandatory Petroleum Price Regulations, which pertains to the computation of maximum lawful prices for "new items."

FACTS

The request was engendered by the following fact situation.

(1) Since January, 1974, New England Power Company ("NEPCO") has been allocated monthly volumes of No. 6 residual fuel oil pursuant to the FEA's Mandatory Petroleum Allocation Regulations. Asiatic Petroleum Corporation ("Asiatic") and Golden Eagle Oil Company ("Golden Eagle") are NEPCO's base period suppliers under the regulations.

(2) In an effort to assure itself of the availability of adequate supplies of fuels on a continuing basis, NEPCO considers the maintenance of relatively large reserves of oil and coal to be essential. The cost to NEPCO of maintaining these fuels reserves, however, has become increasingly burdensome due to the large volumes of fuels involved, higher fuel costs, and higher interest rates. As a result, large amounts of funds, needed for other purposes, have been required to maintain fuel inventory. In order to defer payments for fuel, and thereby to make substantial amounts of capital available for other purposes, NEPCO proposes to enter into a "Fuel Reserve and Supply Agreement" ("Agreement") with Pru Fuel under which NEPCO will assign to Pru Fuel its rights under its existing contracts for the purchase of fuel oil, including its contracts with Asiatic and Golden Eagle. Pru Fuel will then purchase fuel from the contracting parties, including Asiatic and Golden Eagle, in accordance with the terms of the contracts, and will receive and store the fuel in NEPCO's storage facilities for its Brayton Point and Salem Harbor stations.

(3) Deliveries of No. 6 fuel oil by Pru Fuel to NEPCO are to be made in "cargo lots." This high volume method of delivering fuel to a utility is unique within Pru Fuel's market area.

(4) According to the terms of the proposed Agreement, NEPCO will pay to Pru Fuel at the end of each month a charge, consisting of the following:

(a) The actual cost of Pru Fuel, including incidental costs, handling, and storage, of all fuel deemed under the Agreement to have been delivered from Pru Fuel to NEPCO during the prior month; plus

(b) A service charge expressed as a percentage (such percentage to be equal to x of the value of all fuel deemed under the Agreement to have been held in inventory by Pru Fuel as of the beginning of the prior month multiplied by a fraction the numerator of which is the number of days in the prior month and the denominator of which is 360;

(c) A service charge expressed as a percentage (such percentage to be equal to x of the net value of all fuel deemed under the Agreement to have been added to Pru Fuel's inventory during the prior month multiplied by a fraction the numerator of which is the number of days in the prior month and the denominator of which is 360; and

(d) A service charge expressed as a percentage (such percentage to be equal to x of the sum of (a), (b), and (c) above multiplied by a fraction the numerator of which is the number of days from and including the 27th day of the prior month to and including the day on which payment is received and the denominator of which is 360.

Payments are to be made on or before the 20th day of the month following the month in which fuel is deemed delivered under the Agreement.

(5) Neither Pru Lease nor any of its affiliated entities is, or has been within the past year, otherwise involved in the production, refining, or marketing of crude oil or any other product covered by FEA regulations.

(6) Although NEPCO's "base charge to its customers for electrical energy may be adjusted to pass on increased fuel costs, only that portion of the monthly charge paid by NEPCO under the Agreement which represents the actual cost of fuel to Pru Fuel, including incidental costs as described in paragraph 4(a), above, will be passed on by NEPCO to its customers as an increased fuel cost. The remainder of the monthly charge is to be treated by NEPCO as a cost of service incurred by NEPCO which is subject to FPC review and which may only be passed on to NEPCO's customers pursuant to an extraordinary rate increase authorized by the FPC.

ISSUE

The question presented is whether the charge to be made by Pru Lease for fuel furnished NEPCO under the Agreement is at or below the maximum lawful price which may be charged under FEA price regulations.

INTERPRETATION

Pru Lease submits that it should be regarded under the FEA price regulations as

a "reseller," (as defined in 10 CFR 212.31) of a "new item" (as defined in 10 CFR 212.111(a)). Pru Lease further submits that sales of fuel to NEPCO in the manner provided for in the Agreement would result in a lawful price "comparable to that which a hypothetical seller could charge, given a May 15, 1973 selling price plus an amount which reflects on a dollar-for-dollar basis increased costs of the fuel oil," under the regulatory provisions of 10 CFR 212.111(b)(3) and 10 CFR 212.93.

Section 212.111(a)(1) of the FEA regulations provides for the determination of lawful prices in accordance with paragraph (b) of the same section where:

"(i) (t)he firm concerned did not produce, sell or lease it (the product) in the same or substantially similar form at any time during the 1 year period immediately preceding the day on which the firm offers it for sale or lease * * *; and (ii) it (the product) is substantially different in purpose, function, quality, or technology, or its use or service effects a substantially different result from any other item which the firm concerned currently sells or leases or sold or leased at any time during the 1 year period immediately preceding the first date on which the firm offers it for sale or lease."

Accordingly, § 212.111 is applicable to sales offered by Pru Fuel.

Since Pru Fuel will be purchasing a No. 6 fuel oil for resale to an ultimate consumer without substantially changing its form, Pru Fuel is a "retailer," as defined in 10 CFR 212.31.

Paragraph (b)(3) of § 212.111 states the method by which the maximum lawful prices for sales of "new items" by retailers are to be determined, as follows:

"A reseller, reseller-retailer or retailer, offering a new item, shall for purposes of applying the price rule of § 212.93 determine the May 15, 1973 selling price for that item as the price at which that item is priced in transactions at the nearest comparable outlet on the day when the item is first offered for sale. For purposes of computing the "increased cost," the cost of the item first offered for sale shall be used rather than the May 15, 1973 cost."

This price rule does not provide for a price "comparable to that which a *hypothetical seller* could charge given a May 15, 1973 selling price plus an amount which reflects on a dollar-for-dollar basis increased costs of fuel oil, (emphasis added)" as Prue Fuel suggests. Rather, it requires prices to be determined by reference to transactions at "the nearest comparable outlet," implicitly an outlet which actually exists.

While the phrase "comparable outlet" is not defined in the regulations, it ordinarily connotes an ongoing, identifiable business or a subsidiary or division thereof, selling the same or a similar product in the same or similar volumes to customers who put the product to the same or similar use. In this circumstance there appears to be no other reseller of No. 6 fuel oil which sells that product in similar volumes of utilities for use in the generation of electricity, except for Asiatic, and literal application of § 212.111(b)(3) would limit Pru Fuel to charging the same prices for fuel as Asiatic.

Given the unique circumstances of this transaction, however, it is necessary that FEA consider not only the language of the rule, but also the policies its regulations are intended to effect and, in light of these unique circumstances, to advise as to whether the prices charged under such circumstances are consistent with the intent of the regulations.

A basic objective of FEA in administering the price rules has been to prevent the insertion of a new entity in an established line of distribution for a petroleum product in a manner which would result in higher prices to downstream marketers and to ultimate consumers. Accordingly, where a newly created marketing entity is inserted in the distribution chain, § 212.111(b) generally requires that where such entity serves a function comparable to that of existing marketing entities, its prices for product shall also be comparable to those of the existing entity. It is FEA's intention by this regulation to prevent prices from being artifically increased by the insertion of an additional marketer which offers no additional services in the distribution chain. Thus, if NEPCO were a retailer of gasoline, it would not be permitted to insert a new entity, serving no additional marketing purpose, between itself and its supplier, and thereby be able to raise its lawful selling price of gasoline to the public.

The circumstances under which Pru Fuel proposed to engage in the marketing of No. 6 fuel oil are not properly characterized as those in which a new entity has been inserted in the distribution chain for the purpose of raising the prices charged to consumers for energy.

Upon examination of the price terms contained in the Agreement between Pru Fuel and NEPCO, and upon consideration of the circumstances which led to the Agreement, the FEA has determined that, for purposes of its price regulations, the monthly charge to NEPCO for fuel under the Agreement is a combination of two elements: The first element consists of the portion of the charge to NEPCO which, as described above, constitutes Pru Fuel's cost of fuel, including incidental costs, plus a service charge; and the second element consists of the various charges based on the application of a percentage rate to the valuation of a continuous inventory, and constitutes the cost of carrying that inventory pending future use.

The first of these elements, representing the total price charged for fuel deemed delivered to NEPCO during the prior month, is essentially no different to NEPCO than it would have been had NEPCO continued to purchase fuel directly from its suppliers. This means the insertion of Pru Fuel into the distribution chain will not materially increase the fuel adjustment costs passed on in the prices paid for energy by NEPCO's customers.

The second element representing the cost to NEPCO of having Pru Fuel maintain for NEPCO an inventory sufficient to satisfy NEPCO's long-term fuel needs, is a cost which NEPCO formerly incurred as an operating cost. Although there is no ready means of comparing the magnitude of that direct cost, formerly incurred by NEPCO, with the cost which will be incurred by NEPCO in its payments to Pru Fuel under the Agreement, presumably the payments to Pru Fuel include an element representing Pru Fuel's profit on the transaction.

The FEA therefore regards the portion of the total charge to NEPCO which represents financing costs incurred by Pru Fuel, together with Pru Fuel's profit margin, simply as a new means of financing NEPCO's inventory, and therefore as representing a cost to NEPCO which it would incur in any event, although possibly through a number of various possible arrangements. Since this portion of the charge to NEPCO will not automatically be passed on to customers as an increased fuel cost and in light of the fact that the price charged to NEPCO's customers for electricity depends upon many factors other than the cost of fuel and is regulated by another agency, the FEA does not regard such portion of the charges paid by NEPCO as constituting a price charged for fuel. Moreover, the function served by Pru Fuel which relates to the second element of the monthly charge is one which tends to justify the insertion of Pru Fuel into the distribution chain, since there is legitimate service provided thereby.

Upon consideration of that portion of NEPCO's monthly charge which is properly regarded as a price paid for fuel in light of § 212.111(b), and the policy considerations of the FEA regulations, outlined above, the FEA has concluded that the charge to be made to NEPCO under the Agreement is a lawful price under FEA price regulations. This determination rests on the fact that this cost of fuel element of the charge is essentially the same as the price formerly charged by Asiatic for the fuel so that the cost of fuel to NEPCO for purposes of implementing fuel adjustment clause rate increases remains essentially unchanged. It further rests on the fact that FEA is well aware that electric utilities face serious financial problems, which result in significant part from increased fuel costs, and that the Agreement here at issue is essentially an effort intended to alleviate these problems. The FEA therefore does not believe its price regulations should unnecessarily interfere with this effort.

The FEA is not in a position to assess the ultimate impact of the Agreement upon NEPCO's customers (beyond the threshold question of the effect under the fuel adjustment clause), and it is therefore specifically provided that this interpretation is not to be regarded as determinative of any question, such as the nature of the costs incurred by NEPCO under the Agreement, for purposes of rate determinations or for purposes of determining NEPCO's compliance with any other regulatory requirement. Nor does this interpretation apply to any sales of product by Pru Fuel, other than sales to NEPCO pursuant to the Agreement.

INTERPRETATION 1974—24

To: National Life and Accident Insurance Co.

Date: December 1, 1974.

Rules Interpreted: Subpart G, Ruling 1974-20, § 212.111.

Code: GCW—PI—Base Rent Rule, New Item Rule.

The Office of General Counsel has completed its review of the June 5, 1974 request for interpretation submitted by National Life and Accident Insurance Company (National) to the Atlanta regional office of the Federal Energy Administration (FEA). That regional office has forwarded to this office National's written request and exhibits setting forth National's questions regarding the charging of rent in excess of the "base rent" for real property used in the retailing of gasoline under 10 CFR, Subpart G, of FEA regulations. Our interpretation is set forth below.

FACTS

The salient facts set forth in National's request disclose that National owns certain real property which it leases, and has leased since 1956, to Texaco, Inc., for use in the retailing of gasoline. During October 1972 the parties entered certain agreements calling for improvements to the real property in question and for an increase in agreed rentals to be paid to National upon completion of the improvements. On May 15, 1973, pursuant to the agreements between National and Texaco, the rent charged was ---------- per month; beginning on July 1, 1973, National charged monthly rentals to Texaco of ---------- Texaco paid this increased rental until May 1974, when Texaco advised National of its view that the increased rental was a violation of 10 CFR 212.102, whereupon National submitted its request, suggesting that the phrase, "the contractual terms prevailing on May 15, 1973," includes the October 1972 agreement and that the rental increase was permissible.

INTERPRETATION

During the period of August 17, 1973 through April 30, 1974, Federal controls exercised over rentals for real property used in the retailing of gasoline, stated that: the base rent * * * is the rent charged for that station pursuant ot the contractual terms prevailing on May 15, 1973. (6 CFR 150.360 (b), and 10 CFR 212.102).

The rule prohibited a lessor or lessee from increasing, offering to increase, or giving notice of intent to increase the rent in excess of the "base rent." (6 CFR 150.360(c), recodified at 10 CFR 212.103(a)).

These regulations were promulgated by the Cost of Living Council and adopted by the Federal Energy Office (now FEA), under authority of the Economic Stabilization Act of 1970, as amended. (Pub. L. 92-210, and Pub. L. 93-28; CLC Order No. 47, 39 FR 24) The applicable language was identical at all times until the expiration of the Stabilization Act on April 30, 1974.

The Council's rule became effective August 17, 1973, almost one year after National entered its agreement to increase the rental at issue here, and immediately after the end of the broad economic freeze imposed in June 1973 (E.O. 11723, 38 FR 15763, June 15, 1973), the month in which construction was completed.

The language employed by the Council, and adopted by FEA, limited rentals to the amount defined as "base rent," as quoted above. Two separate elements are embodied in that definition: The amount must have been "charged" and must have been established pursuant to the contractual terms prevailing on May 15, 1973.

The present situation does not involve the "charging" of the increased rental until after May 15, 1973. While the agreements were indeed executed before May 1973, and there was a possibility of charging the increased rental (e.g., if construction had been completed by May 15, 1973), the facts here show that the increase was not imposed and was not due nor paid on May 15, 1973. Therefore, the increased amount at issue does not meet a necessary element to qualify as the "base rent" between National and Texaco.

It is therefore our interpretation that the increase in rent discussed above is not a part of the "base rent" between National and Texaco.

Although the point is not raised by National, the FEA on May 1, 1974, changed the scope of the rent regulations involved in this request. During the period August 17, 1973 through April 30, 1974, the rent controls included any lessor or lessee, irrespective of the nature of the business of such parties (6 CFR 150.360(a) and 10 CFR 212.101). On May 1, 1974, by amendment to 10 CFR 212.101, FEA restructured the scope of these rent rules to include such leases only where the parties to the lease are members of the petroleum industry (39 FR 15139, May 1, 1974). The change was implemented to reflect the more narrow scope of the authority remaining to FEA upon the expiration of the Economic Stabilization Act on April 30, 1974.

This interpretation therefore applies only during the period that the lessor, National, was subject to the rent regulations discussed, which ended April 30, 1974, since National does not appear to be (according to the documents submitted by it) a refiner, reseller, reseller-retailer, or retailer within FEA price regulations.

By its letter, National has urged this office to advise it of the likelihood of success in the event National seeks an exception to the regulations herein discussed. This office is not responsible for exceptions matters, and this request must therefore be declined. General standards for exception requests are set forth in Part 205 of FEA regulations.

National further urges this office to conclude, alternatively, that the property involved, after completion of the agreed construction, is "new real property" under 10 CFR 212.111. Because of the view of "base rent" described above, and as suggested by FEA Ruling 1974-20, we conclude that the October 1972 agreement and the nature of the construction undertaken do not bring the property within the "new real property" concept of FEA rules.

INTERPRETATION 1974—25

To: National Convenience Stores, Inc.

Date: December 10, 1974.

Rules Interpreted: §§ 211.12, 211.24(a), 211.106(b)(1), 211.106(d)(1).

Code: GCW—AI—Base Period Supply Obligations.

(Text omitted because Interpretation 1974—25 was modified by Interpretation 1976—11, issued on March 5, 1976, (see 42 FR 7935, February 8, 1977).)

INTERPRETATION 1974—26

To: Continental Oil Co.

Date: December 12, 1974.

Rule Interpreted: § 212.54 (formerly § 210.32).

Code: GCW—PI—Stripper Well Lease Exemption.

This is in response to your request for interpretation, on behalf of Continental Oil Company (CONOCO), concerning the meaning of certain language appearing in 10 CFR 210.32 (Stripper Well Leases).

FACTS

CONOCO is a producer and refiner of domestic crude petroleum. Among CONOCO's producing concerns are certain leases from which crude oil and casinghead gas are obtained. Casinghead gas here refers to natural gas produced with oil from an oil well, as opposed to natural gas produced from a gas well. CONOCO's operations in this regard involve the separation of the casinghead gas from the crude oil at the well through lease separation facilities. After separation, the casinghead gas is metered and sold by CON OCO at the lease.

CONOCO indicates that it has little or no knowledge of whether, after the gas is sold, any natural gas liquids (as the phrase appears in 10 CFR 210.32) are extracted from the gas "at points beyond the lease limits," or what amounts of natural gas liquids, if any, are extracted.

CONOCO, as producer on such leases, seeks an interpretation of the meaning of "natural gas liquids" under the FEA's Stripper Well Lease regulation, § 210.32. Specifically, CONOCO asks whether, in its production and sale of casinghead gas as described above, the phrase "natural gas liquids" requires it to take into account only the volume of those natural gas liquids "produced and identified at the well site or on the lease," for purposes of measuring the volume of lease production under the requirements of § 210.32.

INTERPRETATION

The provisions of 10 CFR 210.32 require that, to qualify for the first sale exemption of that regulation, a lease must have had an average daily production during the preceding calendar year not in excess of ten barrels "of domestic crude petroleum and petroleum condensates, including natural gas liquids," per well. The stripper well lease regulation implements the Congressional directives expressed in section 4(e)(2) of the Emergency Petroleum Allocation Act of 1973 (EPAA) (Pub. L. 93-159). The ten barrel per well daily average production is therefore based upon a total volume of a variety of raw (crude) petroleum oils obtained in the operation of the lease. Among such hydrocarbon compounds are those natural gas liquids obtainable from CONOCO's casinghead gas.

Although the provisions of § 210.32 enumerate the compounds required to be included in calculating the volume of production, this regulation does not itself address the question of the location or time at which those volumes should be determined.

The first sale exemption is, however, stated to apply generally to the producer's sale and therefore includes all amounts of crude petroleum and petroleum condensates, including natural gas liquids which a producer may be deemed to have sold. The FEA is aware that, in sales of casinghead gas such as CONOCO's, the producer is neither responsible for nor aware of, the possible subsequent removal of natural gas liquids from such gas beyond the limits of the lease and after the gas has been sold, and that to require CONOCO ultimately to account for all natural gas liquids ultimately recovered from the casinghead gas it sells would be impracticable. Nevertheless, CONOCO's first sale of casinghead gas does include a first sale of natural gas liquids, since at the time of sale the liquids are contained in the casinghead gas in a mixed state.

FEA is also aware that, in some cases, the seller of casinghead gas retains an entitlement to, or a claim to revenues from the sale of the natural gas liquids ultimately recovered from that casinghead gas. In such cases, the volumes of such liquids are in fact attributed back to the lease in a variety of agreed-upon methods. And in such cases, FEA does consider these liquids attributed back to the lease (whether recovered on-site or away from the lease), as part of the production volume of that lease for purposes of 10 CFR 210.32.

It is, therefore, our interpretation that, in a sale of casinghead gas such as described by CONOCO, the "crude petroleum and petroleum condensates, including natural gas liquids" which must be included to determine the volume of production under the provisions of § 210.32, includes natural gas liquids recovered at the lease and natural gas liquids, wherever recovered, which are allocated to the lease for some purpose.

INTERPRETATION 1974—27

To: Department of Defense.

Date: December 17, 1974.

Rule Interpreted: § 210.62.

Code: GCW—AI—Normal Business Practices, EPAA Supercession of Other Federal Laws.

This is in response to your request on behalf of the Department of Defense ("DoD"), for an interpretation concerning the interrelationship between Federal Energy Administration regulations and the statutes and regulations applicable to procurement activities of DoD.

FACTS

DoD has traditionally obtained its domestic fuel requirements through competitive bid procedures. Since the implementation of the Mandatory Petroleum Allocation Regulations (10 CFR 211.1 et. seq.), suppliers of fuel to DoD have been designated pursuant to those regulations, generally on the basis of 1972 supplier-purchaser relationships, without competitive bids.

This change in procurement methods has made DoD's current procurement activities subject to certain provisions of procurement statutes and regulations, which did not apply to competitive bid procedures.

DoD is required by the provisions of 31 U.S.C. 200 to enter into a contract with each of its suppliers. Under the Truth in Negotiations Act (Pub. L. 87-653) (10 U.S.C. 2306 (f)), contractors are required to submit to DoD certified cost or pricing data for all negotiated contracts or modificiations in excess of $100,000, unless a procurement is otherwise determined by the procuring agency to fall within one of the exceptions set forth therein.

In addition, section 719 of the Defense Production Act of 1950, as added by Pub. L. 91-379 (50 U.S.C. App. 2168) established the Cost Accounting Standards ("CAS") Board to promulgate uniform cost accounting standards for use by defense contractors. Among other things, the CAS Board requires of certain contractors the execution of a Cost Accounting Standards Board Disclosure Statement (Form CASB-DS-1) and acceptance by the contractor of the Cost Accounting Standards Clause set forth in 4 CFR 331.50, ASPR 7-104.83, unless excepted by the procuring agency or the CAS Board. Uniform cost accounting standards are applicable to all negotiated prime and subcontract material defense procurements in excess of $100,000.

The issue as to which an interpretation has been requested is whether the requirements of FEA regulations, promulgated pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), supersede the requirements of law and regulation applicable to DoD contractors, as outlined above.

INTERPRETATION

The basic principle that has been followed by FEA in interpreting the scope of its statutory authority, as reflected in its regulations, is that its regulations do not supersede any other provision of law or regulation, unless there is a clear inconsistency between the provisions at issue. In the case of an irreconcilable conflict, the FEA regulations would be regarded as the controlling authority, if that were necessary to insure attainment of the objectives of the Emergency Petroleum Allocation Act of 1973.

In our view, there is no inconsistency between the requirements of law and regulation applicable to DoD procurement through non-competitive bid procedures, as outlined above, and the FEA allocation and price regulations.

The fact that suppliers are required to supply DoD pursuant to FEA allocation regulations does not preclude compliance with the statutory requirement that DoD enter into contracts with its suppliers. The FEA is aware that many of the details of supplier-purchaser relationships which are established by FEA have traditionally been specified by private contracts. Where, as here, the Congress has seen fit to provide by law that contracts shall be entered into and that certain requirements shall be met with respect to such contracts, the FEA regulations should not be interpreted so as to interfere with that legislative determination, as long as the two requirements are not inconsistent.

Thus, the FEA would not regard the unwillingness of a supplier to enter into a contract containing terms and conditions requird by the laws and regulations governing DoD procurement activities as justification for failure to comply with the allocation regulations. It appears that th requirements of both the laws and regulations governing DoD's procurement activities and the FEA regulations can be readily complied with, and that the refusal of a supplier to abide by the procurement requirements applicable to DoD would have the effect of frustrating the objectives of the Emergency Petroleum Allocation Act and the regulations issued thereunder.

We note that the objective of the statutory and regulatory requirements applicable to DoD's procurement activities is apparently to insure that DoD does not pay disproportionately high prices for the products it purchases. We anticipate that the FEA price regulations, and the cost calculations required of refiners thereunder, would be of substantial assistance to the CAS Board in this regard, and FEA is willing to cooperate to the fullest extent possible with the CAS Board, to insure that the Board is fully aware of FEA regulations and procedures.

The fact that both FEA regulations and the requirements governing DoD procurement activities are directed toward similar objectives does not mean, however, that the FEA regulations must be treated as the exclusive means to this end. FEA allocation and price regulations are necessarily the only basis upon which supplier-purchaser relationships and a supplier's maximum lawful price may be determined. Nevertheless, just as private parties are generally free to negotiate privately for contractual terms that are not inconsistent with FEA regulations, private parties dealing with government agencies must be deemed to be subject to the statutes and regulations governing procurement by those agencies, subject only to the overall limitations imposed by the FEA regulations.

The FEA has promulgated a regulation which requires, generally, that:

"Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period * * * and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter" (10 CFR 210.62).

This regulation does not, however, serve to prevent all changes in business practices by suppliers. Rather, it is a regulation which seeks to prevent any circumvention of FEA regulations which might otherwise be accomplished through altered business practices. Although the requirements of the law or regulation applicable to DoD's procurement activities outlined above would necessarily affect the "normal business practices" of DoD suppliers, that change would not result in circumvention of FEA regulations. Rather, it would simply be a result of the fact that suppliers were now subject to a different set of requirements because they are no longer supplying DoD through competitive bid procedures.

INTERPRETATION 1974—28

To: United Oil Co., Inc.

Date: December 13, 1974.

Rules Interpreted: Subpart G, Ruling 1974—24.

Code: GCR(I)—PI—Base Rent Rule.

This letter is in response to your written Request for an Interpretation of August 30, 1974 relative to the base rent rule of the Petroleum Price and Allocation Regulations (10 CFR Ch. II) as it applies to a lease to which you are a party.

FACTS

In your letter of August 30, you stated that in February, 1973, you leased a service station to an individual who has operated the station since that time. The initial rent was based on conditions which you expressed in your letter as follows: "At that time, the marketing area of this service station was experiencing depressed prices and low profit margins for the station operators. Therefore, in order to assist this dealer in getting started, we afforded him a low flat base rent with an escalation clause based on any increase in his gross gasoline profits that were in excess of the margin he was making at that time. This was done in anticipation of the marketing area eventually straightening out, and, at that time, we would be able to enjoy a reasonable return on our investment: *Provided,* The dealer was able to increase his profit margin on the sale of gasoline."

In your August 30 letter, as supplemented by a telephone conversation on November 13 with Ms. Casey of our Regional Counsel's office, you stated that the leasee of this station has now increased his profits largely due to the allowance for a _____ increase in non-product costs under the FEA Regulations (§ 212.93). You maintain that the escalation clause of the lease should now take effect, providing for an increase in rent based on an increase in profits.

INTERPRETATION

The Federal Energy Administration, Region I, determines that the United Oil Co., Inc., as an Independent Branded Wholesale Gasoline Distributor, is bound by the base rent rule, §§ 212.101-103, which requires that resellers, retailers, or retailer-resellers of gasoline charge the rent for real property used in the retailing of gasoline which was in effect according to contractual terms prevailing on May 15, 1973.

FEA Ruling 1974-24 has given strict application of the base rent rule provision limiting rent to that charged under terms in effect on May 15, 1973. Under that Ruling, a petitioner was denied permission to: (1) Increase the rent based upon a percentage of total sales revenues of fuel and (2) to increase the minimum dollar amount above levels which prevailed on May 15, 1973.

Under the operation of Ruling 1974-24, the United Oil Company may not put into effect an escalation clause which was not among the "terms prevailing on May 15, 1973." Even if this provision could be given effect, however, it is doubtful that an increase in "profits" attributed to the _____ increase in non-product costs allowed to your lessee under FEA Regulations could be properly construed as an "increase in profit margin," enabling an increase of rent under your lease escalator provision. These non-product cost increases are incidental to the operation of the Petroleum Price and Allocation Program and did not arise from an improved market situation as anticipated by the terms of your lease allowing for rent increases.

Relief in this situation might be sought, however, through a Petition for Exception under § 205.52(b)(2) if United Oil could show that maintaining the present rental terms would result in serious hardship or gross inequity to the company. In a recent decision by the FEA (Federal Energy Guidelines, Par. 20,675, Case No. FEE—0881), a modified exception was granted to the Exxon Company from the base rent rules (§§ 212.-101-103) allowing an increase in rent where it was proven that: (1) A $1 per month rental was intended by both parties to be in existence for a very short period of time and (2) that the rental was "grossly disproportionate to the *current market value of the property*". (Emphasis added.) If, however, as you have stated, your lessee's increased profits are based on the non-product cost increase allowance and not on a change in *market conditions,* it is doubtful that this avenue of relief is open to your company.

I am enclosing copies of Ruling 1974—24 and the ruling in Exception Case No. FEE—0881 for your information.

INTERPRETATION 1974—29

To: Expo Car Wash, Inc.

Date: December 30, 1974.

Rules Interpreted: §§ 211.10(e), 211.106(c).

Code: GCR(IX)—AI—Transfer of Allocation Entitlement.

The following is in response to a request for interpretation by Expo Car Wash, Inc., received by our office on December 23, 1974. In its submissions, Expo indicated that it was the owner of the property at 2105 Arden Way, Sacramento, California. On October 31, 1974, Expo obtained a writ of possession which ordered the lessee, Mr. Zia D. Kadri, to turn over possession of the personal property, located on the aforementioned real property to Expo. Expo proposes to operate the business in the same manner as formerly operated by Mr. Kadri; and will be able to establish this business within a reasonable time following the relinquishment of the properties by Mr. Kadri.

Based on these submissions, it is our determination that upon repossession by Expo Car Wash, Inc., Mr. Kadri lost his entitlement to gasoline pursuant to 10 CFR 211.106 (c). Expo Car Wash, Inc. is the successor reseller on the site, and is entitled to the allocation formerly held by Mr. Kadri pursuant to 10 CFR 211.10(e).

[FR Doc.77-14013 Filed 5-17-77;8:45 am]

federal register

WEDNESDAY, MAY 18, 1977

PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

WASTEWATER TREATMENT WORKS

Loan Guarantees for Construction

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

[FRL 725-7]

PART 39—LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

AGENCY: Environmental Protection Agency.

ACTION: Interim rule.

SUMMARY: These interim regulations implement Pub. L. 94-558 which added section 213 to Pub. L. 92-500 (Federal Water Pollution Control Act of 1972, as amended). Under this amendment municipalities may apply for a loan guarantee from EPA for a loan from the Federal Financing Bank (FFB) to finance the local share of grant-funded wastewater treatment works. These regulations set forth application requirements, the criteria that must be met to qualify for a loan, as well as conditions of the guarantee. This amendment provides a source of last resort financing when municipalities are unable to sell bonds or other maturities at reasonable interest rates on the open market.

DATES: Effective Date: June 1, 1977. Comments received on or before September 1, 1977 will be considered in the development of final regulations.

ADDRESS: Send comments to: Director, Grants Administration Division (PM-216), Attention: Loan Guarantee Regulations, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Alexander J. Greene, Director, Grants Administration Division (PM-216) Environmental Protection Agency, Washington, D.C. 20460, Telephone: 202-755-0860.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking was published in the FEDERAL REGISTER on November 23, 1976. Following this notice a public meeting was held on February 14, 1977 to discuss regulations in draft form. These interim regulations incorporate changes resulting from discussions at that meeting, as well as written comments received. The more significant changes that were made are as follows:

(1) The definition of the term "local share" in § 39.105(f) was revised to limit the local share to the total grant eligible and allowable project costs which a public body is obligated to pay under the grant.

(2) Definition of the term "reasonable terms" in § 39.105(i) provides that reasonable terms are rates determined by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

(3) The regulations have been revised to include in § 39.110(b) specific conditions which will limit the extent to which refinancing will be authorized.

(4) A paragraph has been added to the regulations to establish in § 39.110(d) (2) a fee for issuance of a commitment to guarantee a loan, to make the program self-sustaining, to the extent feasible by providing a reserve fund to offset potential defaults.

(5) Section 39.115 has been rewritten to simplify the language and make the loan guarantee conditions less restrictive.

(6) Section 39.140 was revised to provide for alternative provision regarding drawdowns of loan proceeds.

(7) The regulations have been revised to provide in § 39.145 for a late payment penalty in the event a public body defaults in the due and timely payment of its installments of principal and interest.

(8) Based on public comments received, § 39.150 has been substantially revised to simplify the language and to make the provisions concerning defaults and remedies more practicable and less restrictive. Comments will be retained on file at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. and may be inspected between 8 a.m. and 4:30 p.m. at that location.

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Chapter I is amended by revising Part 39, in its entirety to read as follows:

Sec.
39.100 Purpose.
39.105 Definitions.
39.110 Applications.
39.115 Conditions of loan guarantee.
39.120 Limitation on assistance.
39.125 Determination of eligibility for assistance and issuance of guarantee.
39.130 Determination of reasonable rates.
39.135 Loan terms.
39.140 Loan proceeds.
39.145 Loan payments by borrower.
39.150 Defaults and remedies.

AUTHORITY: Pub. L. 94-558, Sec. 213 of the Federal Water Pollution Control Act, as amended (86 Statute 816 et seq. (33 U.S.C. 1281 et seq.) as amended).

§ 39.100 Purpose.

This part implements section 213 of the Federal Water Pollution Control Act Amendments of 1972, as amended, by establishing policies and procedures to ensure that inability to borrow necessary funds from other sources on reasonable terms does not prevent the construction of any wastewater treatment works for which a grant has been, or will be, awarded in compliance with the Act. It provides for the guarantee by the Administrator of full and timely payment of principal and interest on any obligation of the State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance the local share of the costs of any such project.

§ 39.105 Definitions.

The following words and terms shall have the meaning set forth below:

(a) *Act.* The Federal Water Pollution Control Act Amendments of 1972, as amended (Pub. L. 92-500, 33 U.S.C. 1281 et seq.).

(b) *Bank.* The Federal Financing Bank established pursuant to the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.).

(c) *Guaranteed Loan Program.* The program established pursuant to Pub. L. 94-558 which amended the Act by adding section 213.

(d) *Loan agreement.* A written agreement between the Bank and the guaranteed borrower stating the terms of the loan.

(e) *Loan guarantee agreement.* A written agreement between EPA and the guaranteed borrower stating the terms of the loan guarantee.

(f) *Local share.* The amount of the total grant eligible and allowable project costs which a public body is obligated to pay under the grant.

(g) *Note.* An evidence of the debt, including a bond, obligation to pay, or other evidence of indebtedness where appropriate.

(h) *Public body.* A State, interstate agency, a municipality, or an intermunicipal agency, as defined below:

(1) *State.* A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) *Interstate agency.* An agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of water pollution.

(3) *Municipality.* A city, town, borough, county, parish, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created by or pursuant to State law, or an Indian Tribe or an authorized Indian tribal organization, having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of the Act. This definition excludes a special district, such as a school district, which does not have as one of its principal responsibilities the treatment, transport, or disposal of liquid wastes.

(i) *Reasonable terms.* Rates determined by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

§ 39.110 Application.

(a) *Who may apply.* A public body which has applied for a grant under Title II of the Act (including grantees whose projects are eligible for reimbursement under section 206 of that title) or which has committed itself to finance the local share of any project(s) for which a grant

has been awarded, or for which an application is being processed, may apply through the State agency to the appropriate Regional Administrator for a loan and the commitment to guarantee such loan to finance the local share of such project.

(b) *Financing.* Applications for loan guarantees will be limited to:

(1) Financing that portion of the local share for which permanent financing has not been arranged.

(2) Refinancing that portion of the local share of those projects on which construction has not been completed and for which the public body initially held a public solicitation on a bond issue, received no bids, and subsequently accepted or negotiated financing at interest rates greater than 10 percent.

(c) *Application requirements.* The application shall include documentation of the following:

(1) *Inability to obtain necessary financing.* The applicant shall document that it is unable to obtain on reasonable terms as defined in § 39.105(i) sufficient credit to finance the local share of the project(s). Such documentation shall include: (i) The results of any public solicitation for bids for obligations to finance the local share or (ii) a certification, acceptable to the Administrator, from a municipal bond underwriter(s), which submitted or might normally have submitted a bid for the obligations. An applicant with an obligation to pay the local share not in excess of $250,000 may obtain certification from two or more local or regional banks to meet subdivision (ii) of this subparagraph. An applicant representing communities with a population of 10,000 or less must also submit a written statement from an authorized representative of the Farmers Home Administration that grants, loans, or loan guarantees are not available from Farmers Home Administration in an adequate amount or within a reasonable time, as determined by the Administrator.

(2) *Ability to repay.* The application for a loan guarantee shall be accompanied by an official statement intended to provide EPA with the information needed to reach an informed judgment as to whether there is reasonable assurance of repayment. The official statement must conform to the guidelines for such statement which are available to applicants from the EPA regional office upon request.

(3) *Legal authority of applicant.* The application shall be accompanied by a legal opinion establishing that the applicant has legal authority to obligate itself for payment of the local share, to comply with the loan conditions, and to issue the obligations, and that the obligations will be legal and binding obligations.

(4) *Assurances.* The application shall be accompanied by assurances set forth in an ordinance or other evidence of authority acceptable to the Administrator that it can and will comply with all of the conditions set forth in § 39.115.

(d) *Fees.* The following fees will be charged in order to make the program self-sustaining. These fees may be revised from time to time as determined by the Administrator.

(1) *Application processing.* EPA will charge a non-refundable minimum fee of $1,000 or ⅛ of one percent of the loan amount, whichever is greater, but not to exceed $25,000 for processing applications. This fee will be submitted with the application and will be retained by the EPA whether or not a loan is consummated.

(2) *Fee for issuance of a commitment to guarantee.* A fee will be charged for the issuance of a commitment to guarantee a loan. This fee will be ½ of 1 percent of the principal amount of the loan, and shall be placed in a contingency reserve to offset defaults. This fee is contingent upon the loan being obtained by the applicant and is payable within 30 days of the date of loan approval.

(e) *Format.* The Administrator may, from time to time, prescribe a form or format for the submission of the application or any portion thereof.

§ 39.115 Conditions of loan guarantee.

Any loan guarantee made pursuant to this part shall be subject to the following conditions:

(a) *Step 1 or Step 2.* Each public body applying for a loan guarantee for the local share of Step 1 or Step 2 costs must assure that:

(1) It will repay the loan using all local resources legally available; and

(2) Any funds due to the public body from the amounts appropriated under section 206 of the Act may be used if such use is necessary for repayment.

(b) *Step 3.* Each public body applying for a loan for the local share of Step 3 costs must assure that:

(1) It will repay the loan using all local resources legally available and, if necessary, (i) all or any portion of the funds retained by it under section 204 (b)(3) of the Act, and (ii) any funds due to such grantee from the amounts appropriated under section 206 of the Act;

(2) The facilities are maintained in good repair and operating condition during the period in which the notes or the obligations financed by the Bank are outstanding;

(3) Adequate insurance and bonding are maintained to protect the guarantor;

(4) Financial reports and records necessary to reflect the planned and actual receipt of revenues for repayment are maintained and preserved until 3 years after the notes or the obligations financed by the Bank have been retired.

(5) Revenue plans adequate to assure repayment of principal and interest of the notes or the obligations financed by the Bank are adopted; and

(6) The Administrator is promptly notified whenever it appears that projected annual revenues will be insufficient to meet payments for principal, interest, and operating and maintenance costs. Such notification shall include a description of the steps being taken to remedy the problem.

(c) *Other covenants.* Among other covenants made by the public body in the loan guarantee are the following:

(1) *Application of loan proceeds.* The loan proceeds shall only be applied to the payment of costs associated with the project for which EPA has awarded grant assistance in accordance with § 39.140.

(2) *Payment.* The public body covenants that if amounts adequate for the payment of principal and interest are not available when due and payable, appropriate steps will be taken to levy sufficient additional taxes, fees, or charges and to make such payments in a timely manner.

(3) *Accounts and reports.* The public body shall keep complete and accurate books, records, and accounts relating to the loan, the loan guarantee, and the funds and accounts used to pay the amounts due on the loan. Such books, records, and accounts shall be subject to inspection by the Administrator or the Comptroller General of the United States at reasonable times.

(4) *Status of other encumbrances.* The public body will not on or after the date of execution of the loan guarantee by EPA, create or suffer to be created any lien or charge, which would constitute a lien prior to the lien created to secure the loan. Any bonded indebtedness or liens created by the public body on or after the date of execution of the loan guarantee by EPA and associated with the treatment works being constructed with Federal grant assistance may, at the discretion of the Administrator, be on a parity with the lien of the loan guaranteed by the Administrator.

(d) *Enforcement.* The public body agrees to the enforcement of the foregoing conditions by the Administrator in a court of appropriate jurisdiction pursuant to any of the remedies provided for under § 39.150, Defaults and remedies, in order to avert an Event of Default.

§ 39.120 Limitation on assistance.

The amount of any grant, loan, loan guarantee, or other assistance available from another Federal agency, a State, or other third parties on reasonable terms shall be deducted from the local share amount before the loan guarantee amount is determined.

§ 39.125 Determination of eligibility for assistance and issuance of guarantee.

(a) The Administrator shall make the following determinations before issuing a loan guarantee:

(1) The project for which the loan guarantee is requested is eligible for grant assistance under Title II of the Act;

(2) The applicant is unable to obtain, on reasonable terms, sufficient credit to finance the local share without such a loan guarantee; and

(3) There is reasonable assurance that the applicant will be able to repay the loan or obligation to the Bank.

(b) If the application is approved, the Administrator will issue the loan guarantee and, subsequent to grant award, will request issuance by the Bank.

(c) If the loan application is disapproved, such disapproval shall be final and conclusive unless appealed within 30 days after receipt of the notice of disapproval pursuant to Subpart J, Disputes, of the general grant regulations (40 CFR 30.1100 et. seq.).

§ 39.130 Determination of reasonable rates.

The Secretary of the Treasury in accordance with the Act shall make a determination of whether financing is available at reasonable rates.

§ 39.135 Loan terms.

(a) *Interest rates.* The interest rate(s), to be charged for each loan shall be determined by the Secretary of the Treasury in accordance with section 6(b) of the Federal Financing Bank Act of 1973.

(b) *Repayment period.* The repayment period for any obligation guaranteed by the Environmental Protection Agency shall be for a reasonable term not to exceed the useful life of the project or forty years whichever is less.

§ 39.140 Loan proceeds.

The loan proceeds shall be applied solely to pay costs associated with the construction of the treatment works for which EPA has awarded a grant. Loan proceeds may be dispersed in a lump sum upon execution of the loan agreement, or drawdowns under the loan agreement may be pursuant to a schedule or requests submitted to the Bank by the borrower. Any loan proceeds or drawdown requests which are paid in advance of the current need for funds to pay costs associated with the EPA grant will be placed by the borrower in investments approved by the Bank under the loan agreement until such time as the proceeds are applied to such costs.

§ 39.145 Loan payments by borrower.

The borrower will submit his payments of principal and interest on the loan directly to the Bank in accordance with the loan agreement. A late payment penalty of 1 percent per month of the payment amount due shall be charged pursuant to the loan agreement and the provisions of the loan guarantee agreement in the event any payment of principal and interest is not paid when due.

§ 39.150 Defaults and remedies.

(a) Each of the following events shall be defined as an "Event of Default":

(1) Default by the public body in the payment of any Principal Installment, if any, on any loan guaranteed by the Administrator when due;

(2) Default by the public body in the payment of any installment of interest on the loan when due; and

(3) Failure or refusal by the public body to comply with section 213 of the Act, or default in the performance or observance of any other of the covenants, agreements, or conditions contained in the loan agreement, or loan guarantee agreement, where such failure, refusal or default shall continue for a period of 45 days after written notice thereof is issued by the Administrator.

(b) The loan agreement and guarantee shall provide that upon the happening and continuance of any event described in paragraph (a) of this section, the Administrator may proceed on behalf of the Environmental Protection Agency and the United States to protect and enforce its rights and the rights of the Federal Financing Bank by such of the following remedies as the Administrator being advised by counsel, shall deem most effectual:

(1) Enforce by mandamus or other suit, action or proceedings at law or in equity all rights of the Administrator including the rights to require the public body to enforce, collect and receive taxes, fees, or charges adequate to carry out the covenant or payment of principal and interest when due, and to require the public body to carry out any other covenant or agreement with the Administrator to perform its duties under the Act, these regulations and the loan agreement and loan guarantee agreement;

(2) Bring suit upon the loan;

(3) Require the public body by action or suit to account as if it were the trustee of an express trust for the holders of the evidence of indebtedness of the loan;

(4) Enjoin by action or suit any acts or things which may be unlawful or in violation of the rights of the Administrator or the Bank;

(5) Declare all remaining payments of principal and interest on the loan due and payable, and, if all default shall be made good, then, to annul such declaration and its consequences; and

(6) In the event that all the remaining principal and interest on the loan be declared due and payable, apply to a court having jurisdiction for other appropriate administrative and judicial relief.

[FR Doc.77-14144 Filed 5-17-77;8:45 am]

Federal Register

WEDNESDAY, MAY 18, 1977
PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

INTERSTATE COMMERCE COMMISSION

■

System Diagram Maps

INTERSTATE COMMERCE COMMISSION

[AB 152 (SDM)]

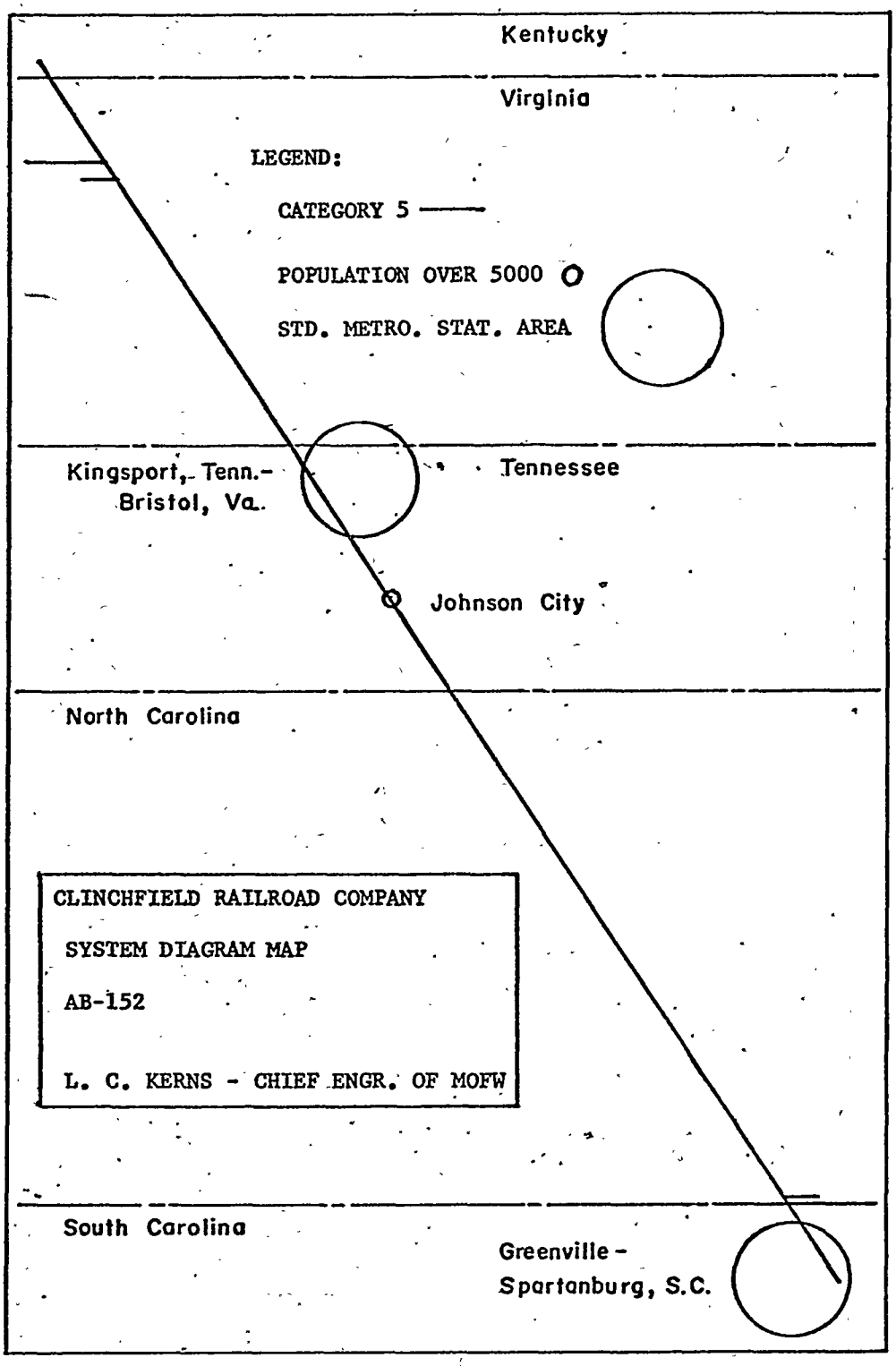
CLINCHFIELD RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Clinchfield Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 152 (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-152 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13948 Filed 5-17-77;8:45 am]

[AB 155 (SDM)]

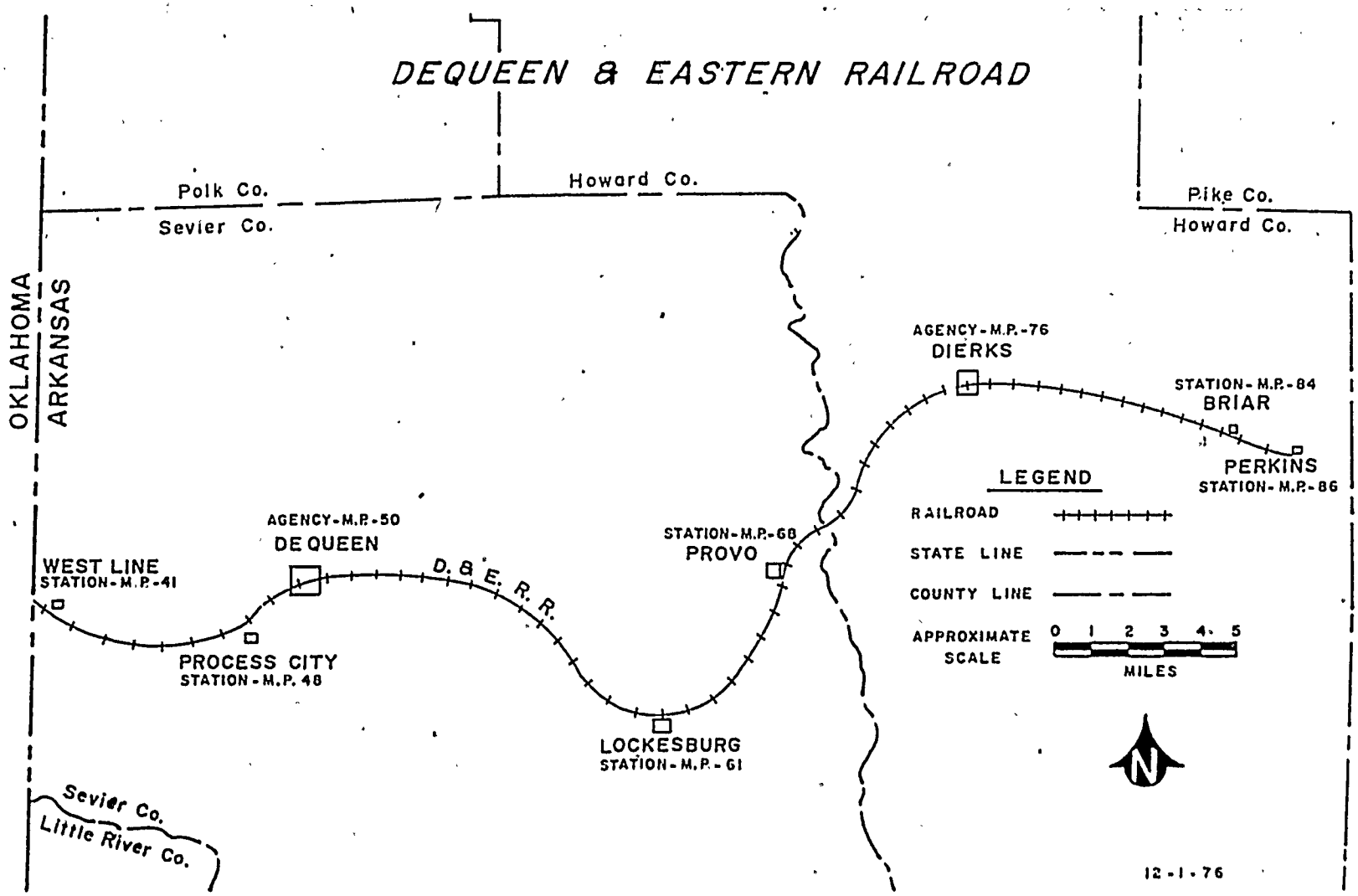
DeQUEEN & EASTERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the DeQueen and Eastern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 155 (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 155 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13938 Filed 5-17-77;8:45 am]

[AB 94 (SDM)]

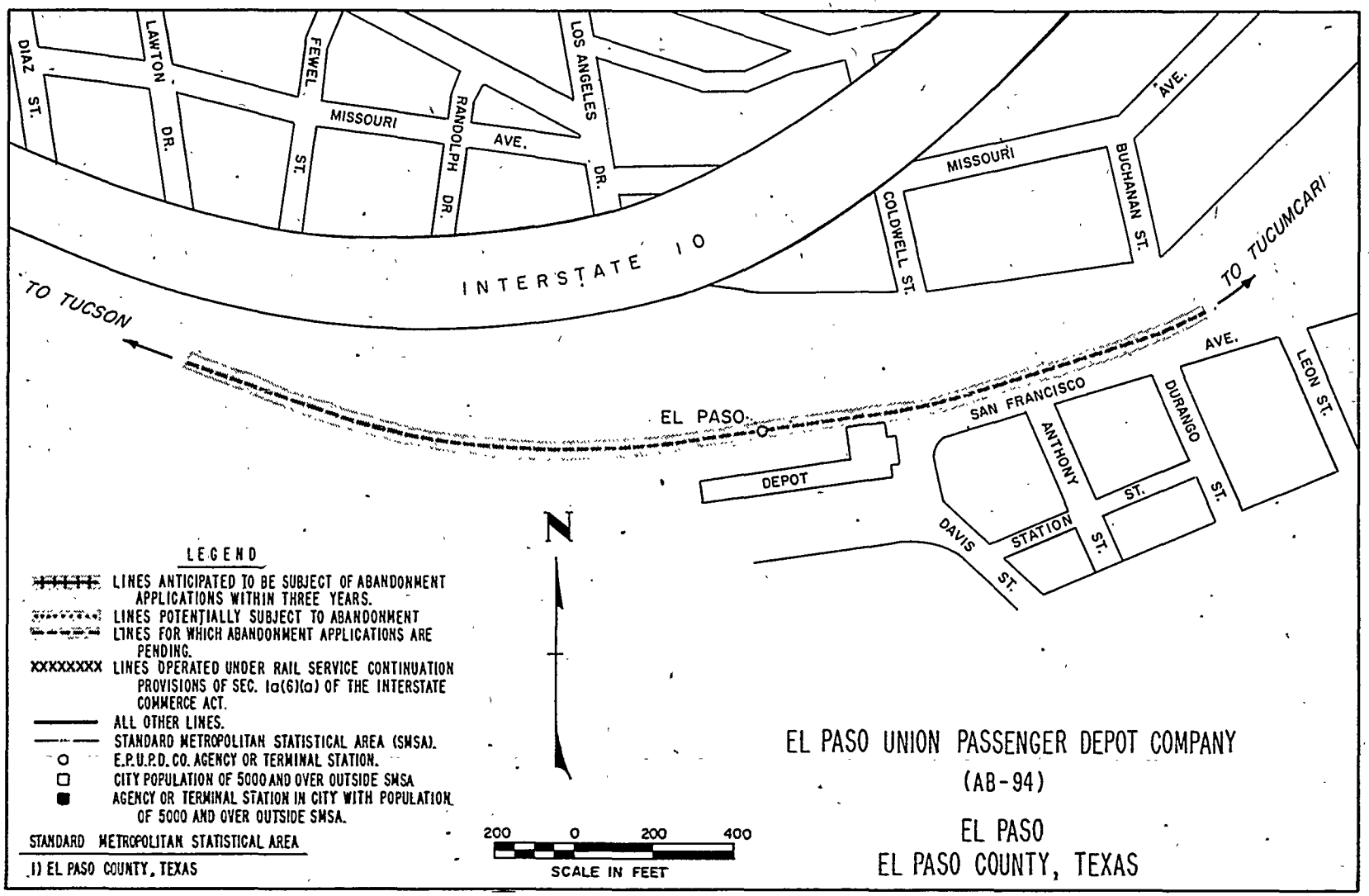
EL PASO UNION PASSENGER DEPOT CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the El Paso Union Passenger Depot Company, has filed with the Commission its color-coded system diagram map in docket No. AB 94 (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 94 (SDM).

ROBERT L. OSWALD,
Secretary.



EL PASO UNION PASSENGER DEPOT 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 El Paso Union Passenger Depot Company as shown on the system diagram map:

Lines for Which Abandonment Application Are Pending Before the Interstate Commerce Commission

TEXAS

(1) (a) Designation of Line: Main Line.
(b) States in which Located: Texas.
(c Counties in which Located: El Paso.
(d) Milepost Locations: Entire line of 0.416 miles.
(e) Agency or Terminal Stations of the Line: El Paso.

[FR Doc.77-13944 Filed 5-17-77;8:45 am]

[AB 168 (SDM)]

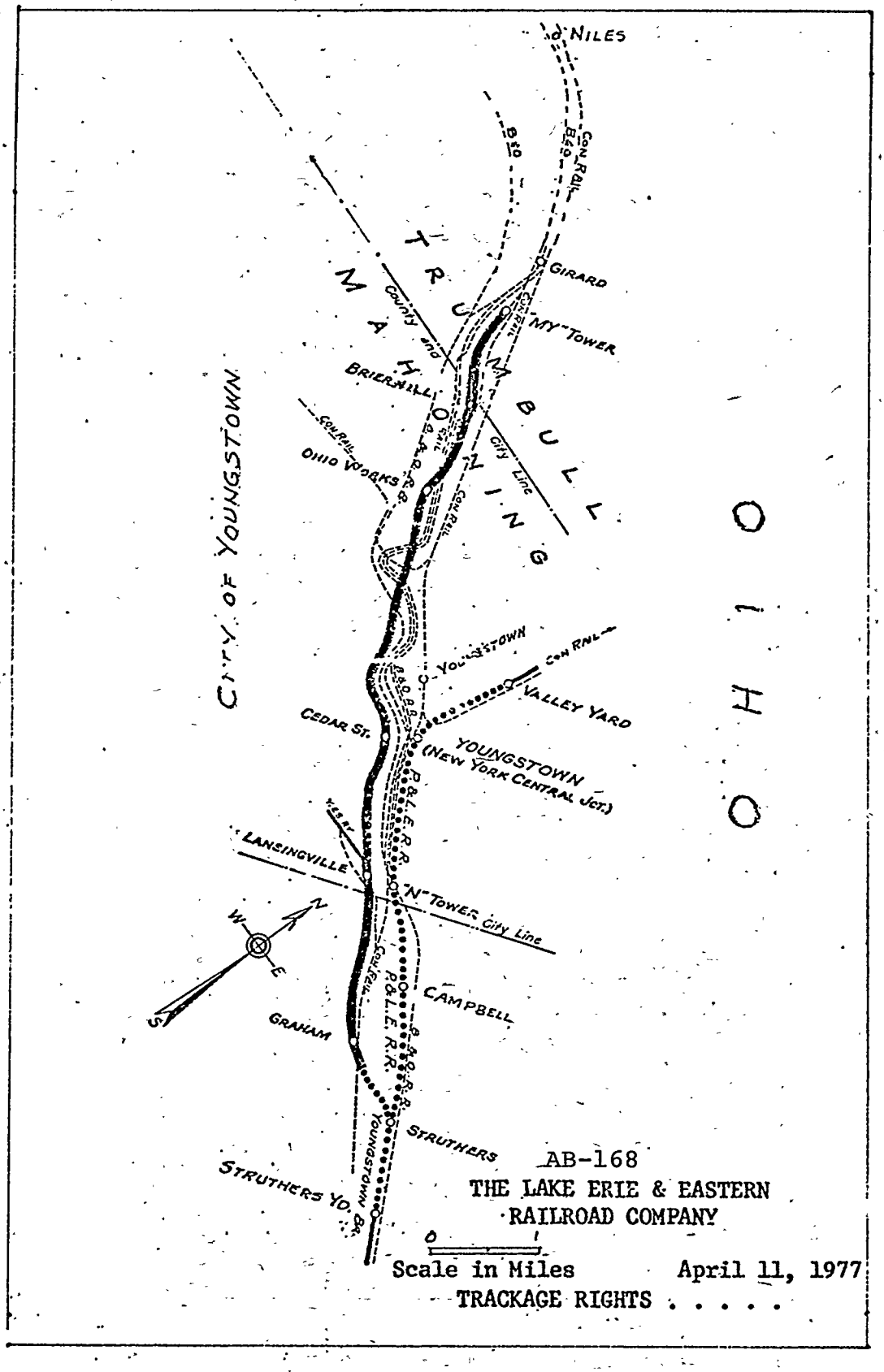
LAKE ERIE & EASTERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Lake Erie & Eastern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 168 (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 States 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 168 (SDM).

ROBERT L. OSWALD.
Secretary.



[FR Doc.77-13940 Filed 5-17-77;8:45 am]

[AB 15 (SDM)]

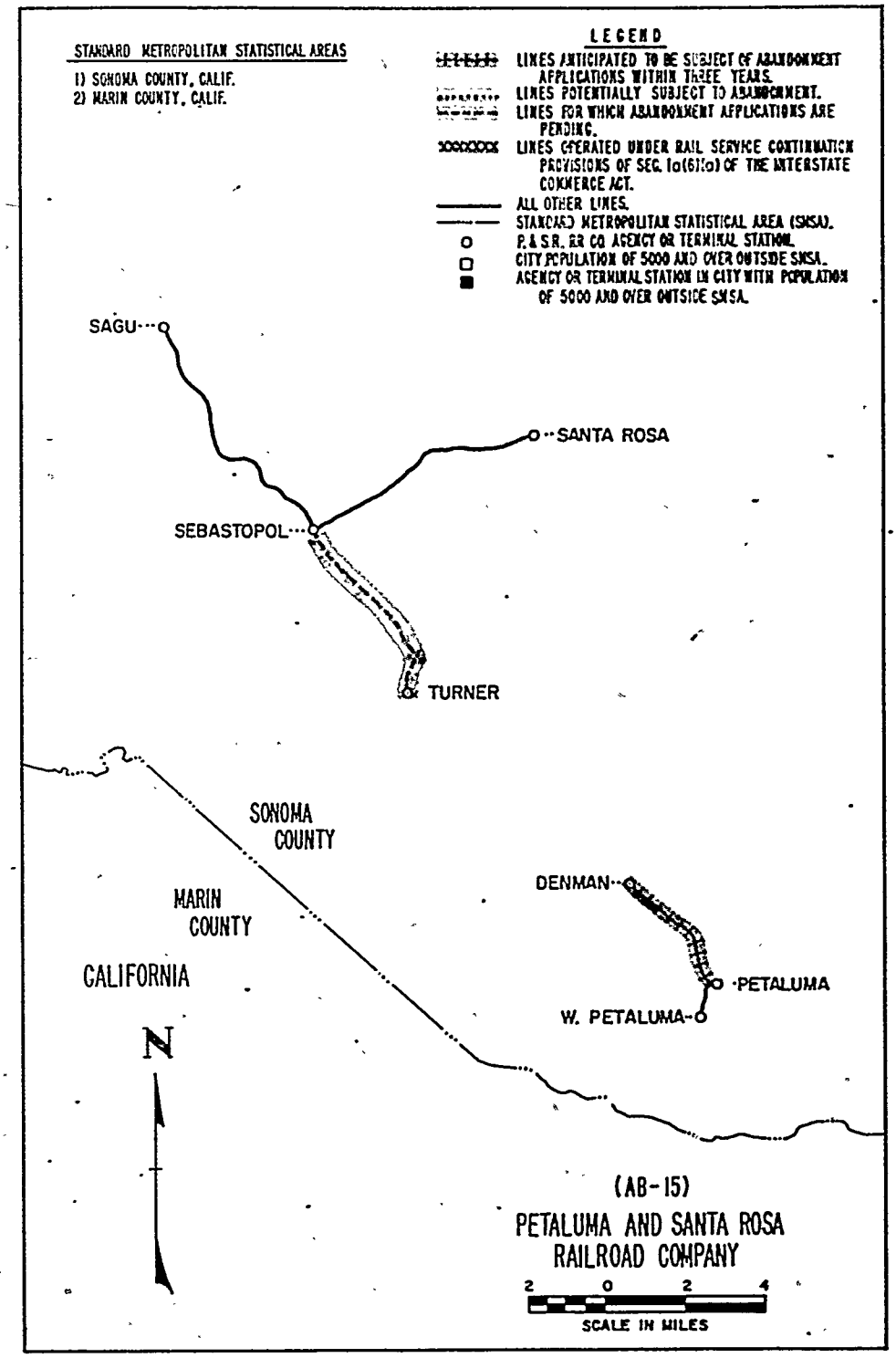
PETALUMA AND SANTA ROSA RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Petaluma and Santa Rosa Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 15 (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-15 (SDM).

ROBERT L. OSWALD,
Secretary.



PETALUMA AND SANTA ROSA 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 Petaluma and Santa Rosa Railroad Company as shown on the system diagram map:

Lines Anticipated To Be Subject of Abandonment Applications Within Three Years

CALIFORNIA

(1) (a) Designation of Line: Main Line.
(b) States in which Located: California.
(c) Counties in which Located: Sonoma.
(d) Milepost Locations: 1.212 at or near Petaluma to 3.587 at or near Denman.
(e) Agency or Terminal Stations: Denman (milepost 3.587).

Lines for Which Abandonment Applications Are Pending Before the Interstate Commerce Commission

CALIFORNIA

(1) (a) Designation of Line: Main Line.
(b) States in which Located: California.
(c) Counties in which Located: Sonoma.
(d) Milepost Locations: 11.138 at or near Turner to 16.660 at or near Sebastopol.
(e) Agency or Terminal Stations: Turner (milepost 11.3).

[FR Doc.77-13945 Filed 5-17-77;8:45 am]

[AB 12 (SDM)]

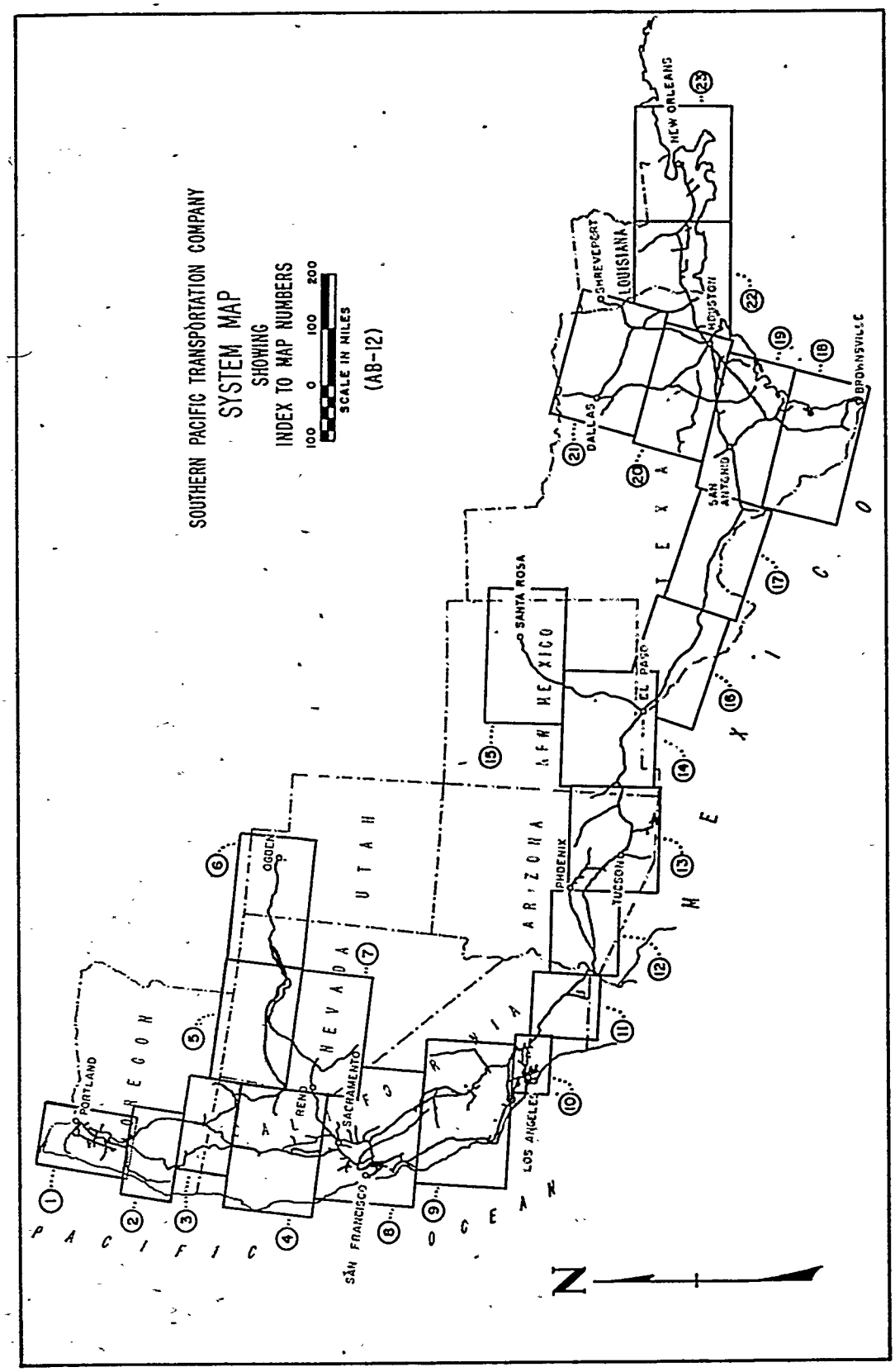
SOUTHERN PACIFIC TRANSPORTATION CO.

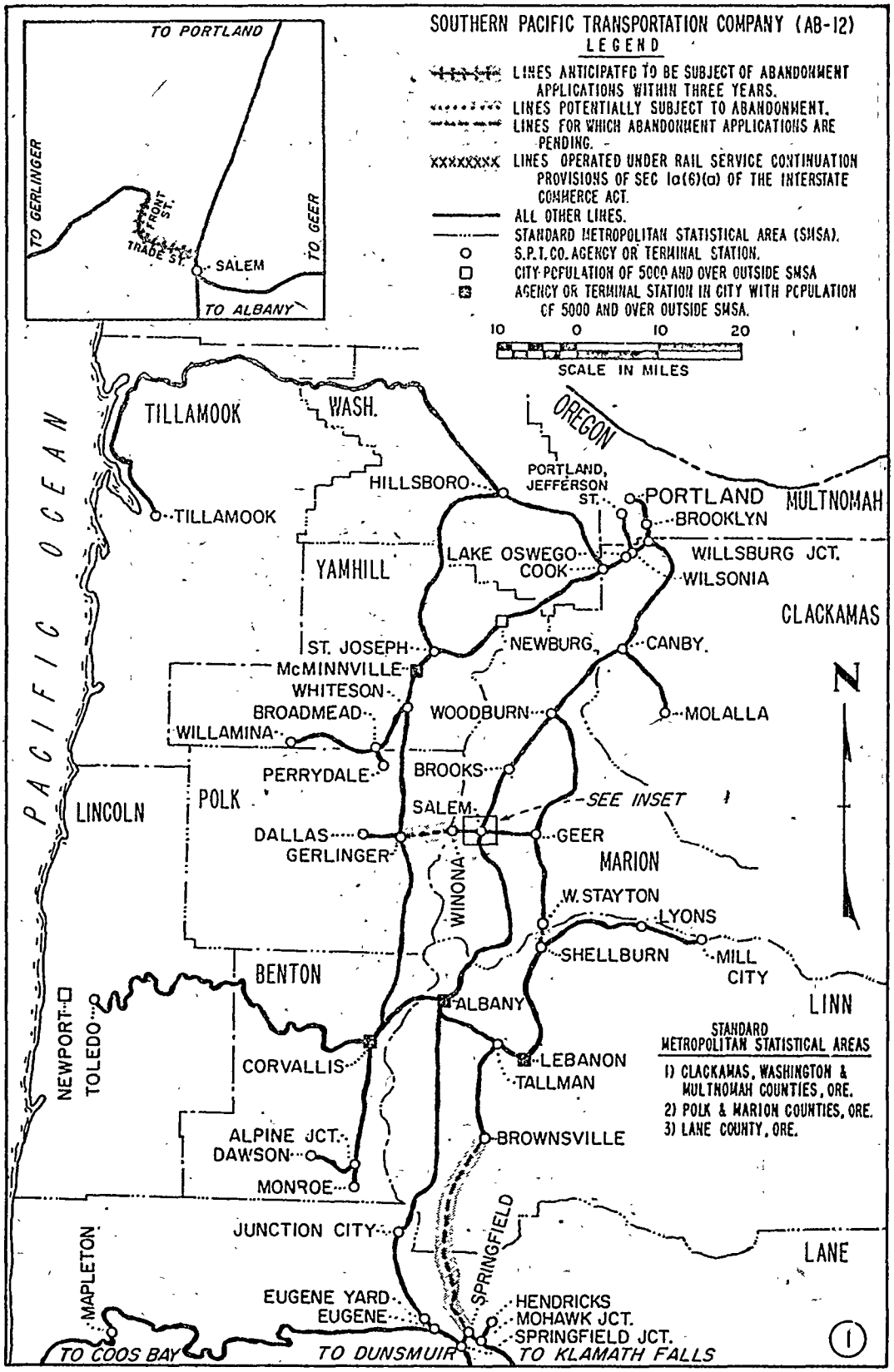
System Diagram Map

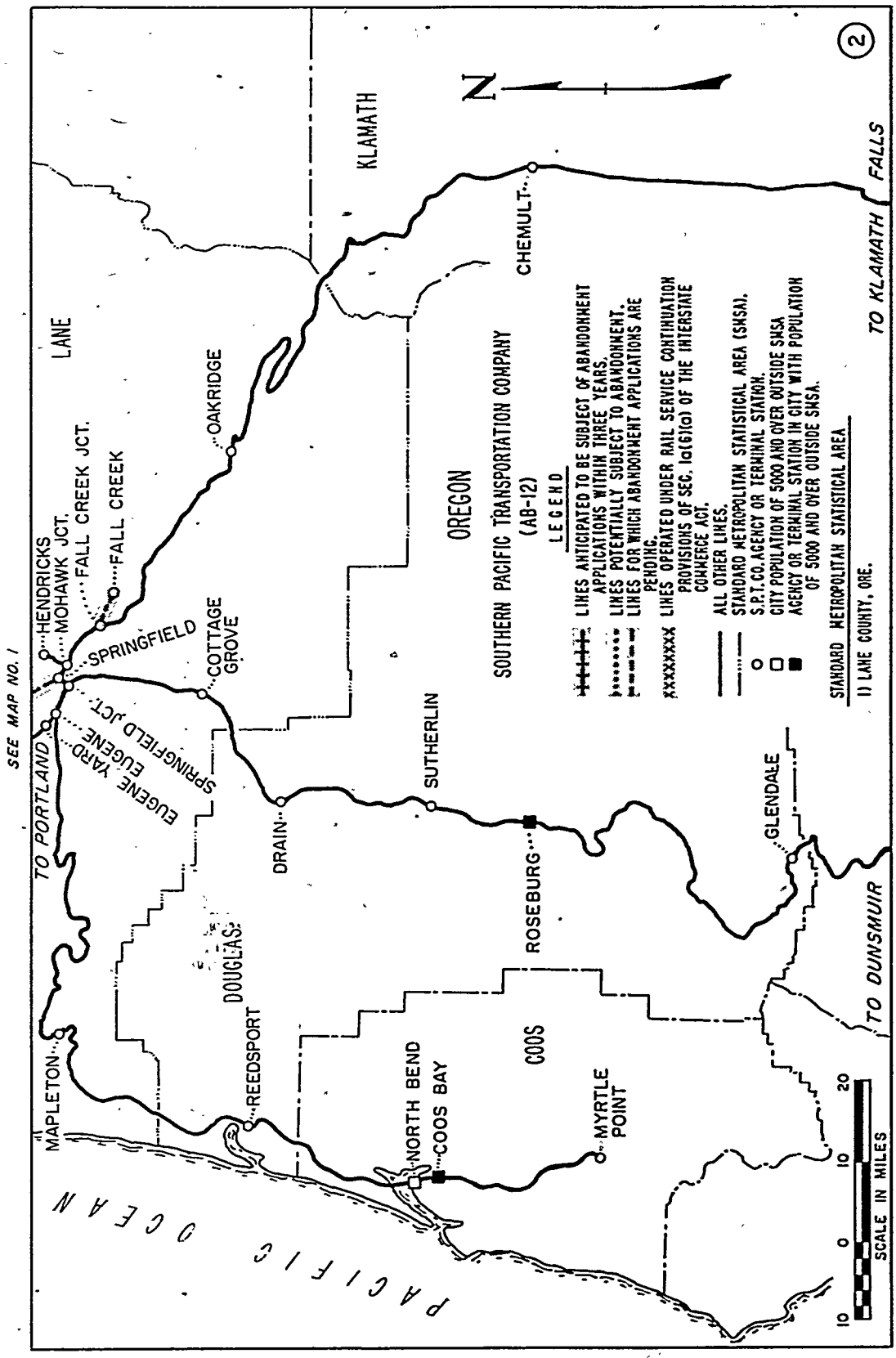
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Southern Pacific Transportation Company, has filed with the Commission its color-coded system diagram map in docket No. AB-26 (SDM). The maps reproduced here in black 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.

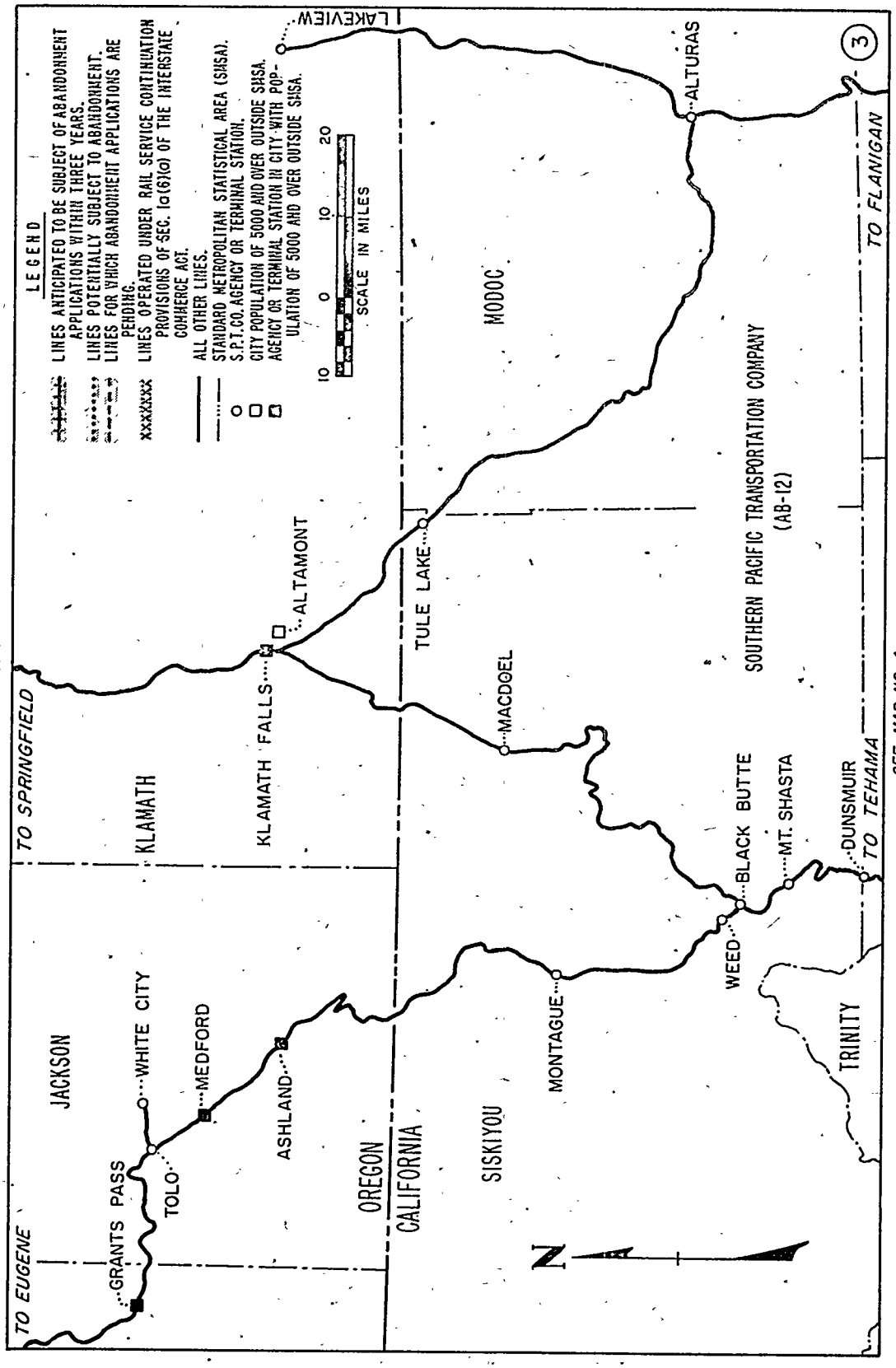
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets by requesting docket No. AB-12 (SDM).

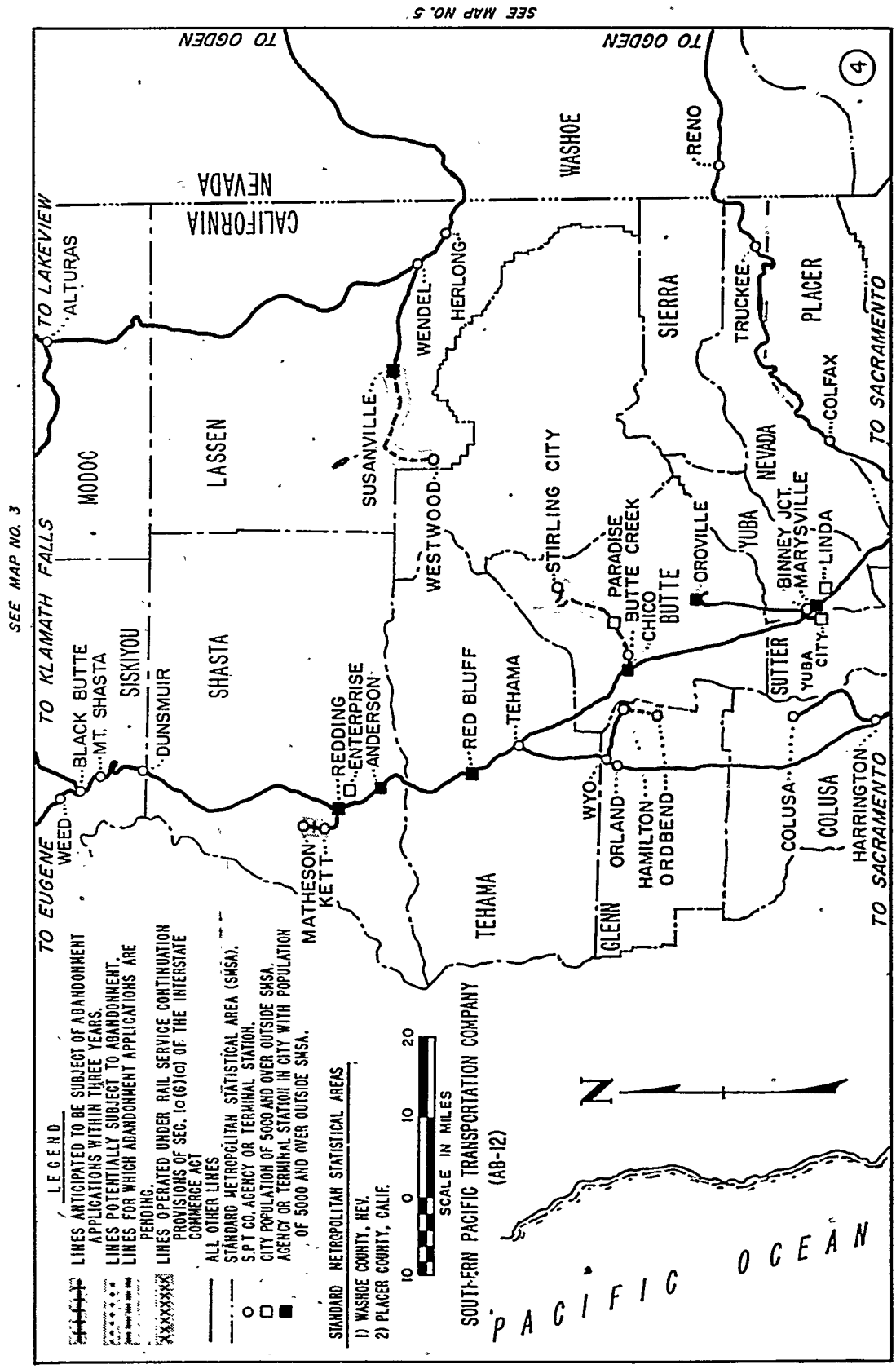
ROBERT L. OSWALD,
Secretary.

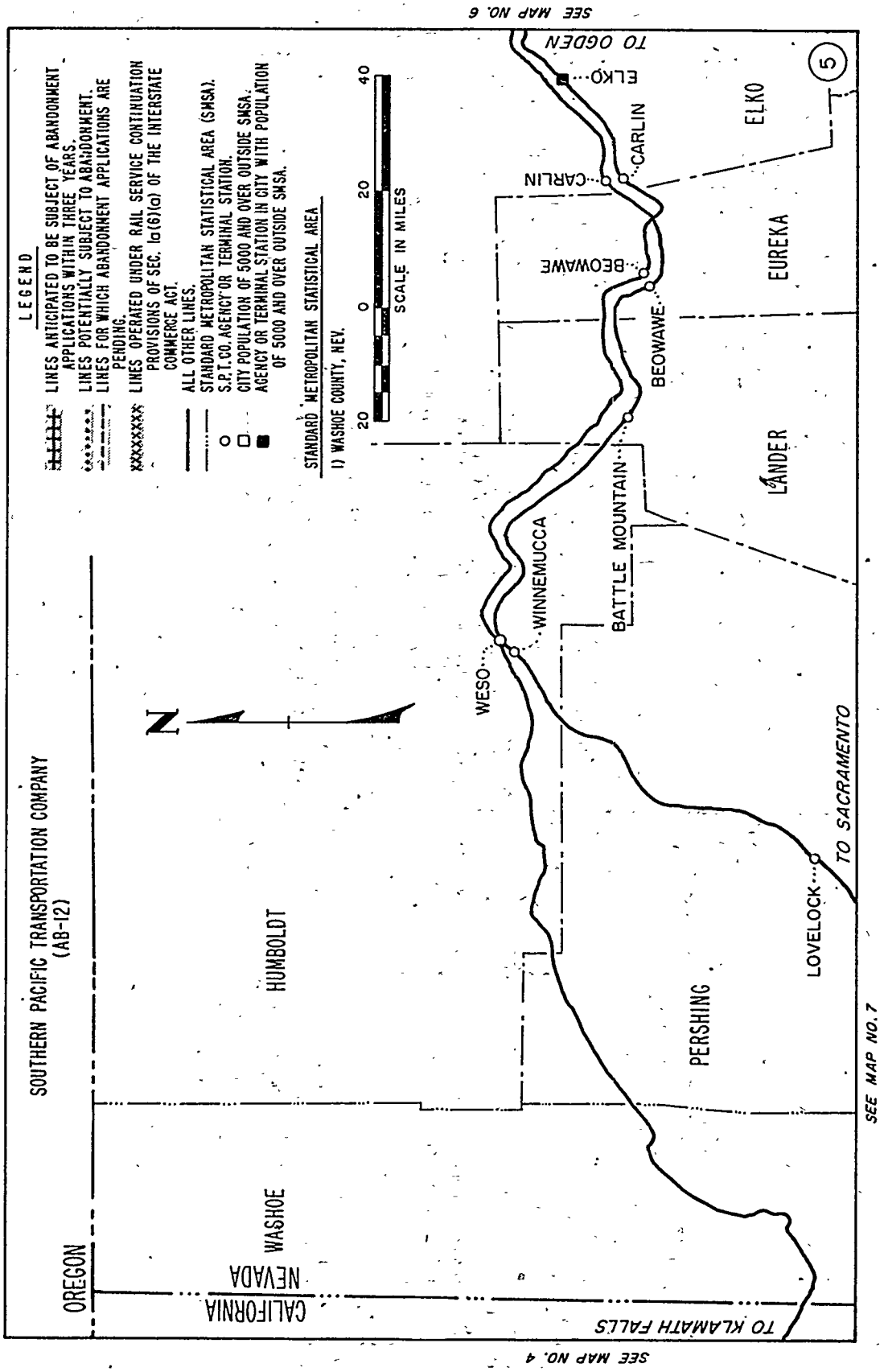

SOUTHERN PACIFIC TRANSPORTATION COMPANY
SYSTEM MAP
SHOWING
INDEX TO MAP NUMBERS
(AB-12)
SCALE IN MILES
100 0 100 200
PACIFIC OCEAN
OREGON
NEVADA
UTAH
ARIZONA
NEW MEXICO
TEXAS
LOUISIANA
PORTLAND
OGDEN
RENO
SACRAMENTO
SAN FRANCISCO
LOS ANGELES
PHOENIX
TUCSON
EL PASO
SANTA ROSA
DALLAS
SHREVEPORT
HOUSTON
SAN ANTONIO
BROWNSVILLE
NEW ORLEANS
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

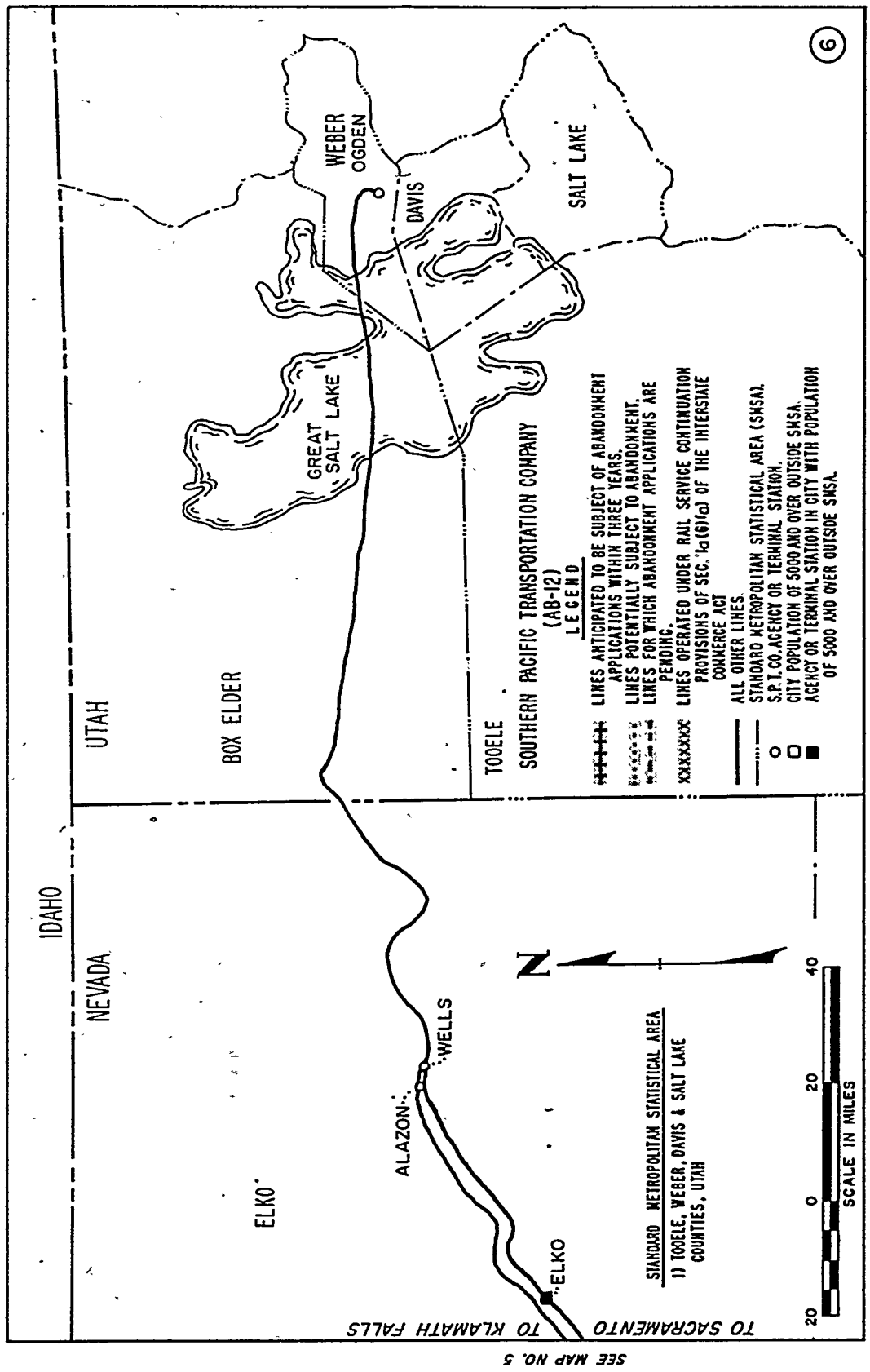

SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. 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.
10 0 10 20
SCALE IN MILES
TO PORTLAND
TO GERLINGER
TO GEER
TO ALBANY
FRONT ST.
TRADE ST.
SALEM
PACIFIC OCEAN
TILLAMOOK
WASH.
OREGON
HILLSBORO
PORTLAND, JEFFERSON ST.
PORTLAND
BROOKLYN
MULTNOMAH
TILLAMOOK
YAMHILL
LAKE OSWEGO
COOK
WILLSBURG JCT.
WILSONIA
CLACKAMAS
ST. JOSEPH
NEWBURG
CANBY
McMINNVILLE
WHITESON
BROADMEAD
WOODBURN
MOLALLA
WILLAMINA
PERRYDALE
BROOKS
LINCOLN
POLK
SALEM
SEE INSET
DALLAS
GERLINGER
GEER
MARION
WINONA
W. STAYTON
LYONS
SHELLBURN
MILL CITY
BENTON
ALBANY
LINN
NEWPORT
TOLEDO
CORVALLIS
LEBANON
TALLMAN
STANDARD METROPOLITAN STATISTICAL AREAS
1) CLACKAMAS, WASHINGTON & MULTNOMAH COUNTIES, ORE.
2) POLK & MARION COUNTIES, ORE.
3) LANE COUNTY, ORE.
ALPINE JCT.
DAWSON
BROWNSVILLE
MONROE
JUNCTION CITY
SPRINGFIELD
LANE
MAPLETON
EUGENE YARD
EUGENE
HENDRICKS
MOHAWK JCT.
SPRINGFIELD JCT.
TO COOS BAY
TO DUNSMUIR
TO KLAMATH FALLS
1
SEE MAP NO. 2

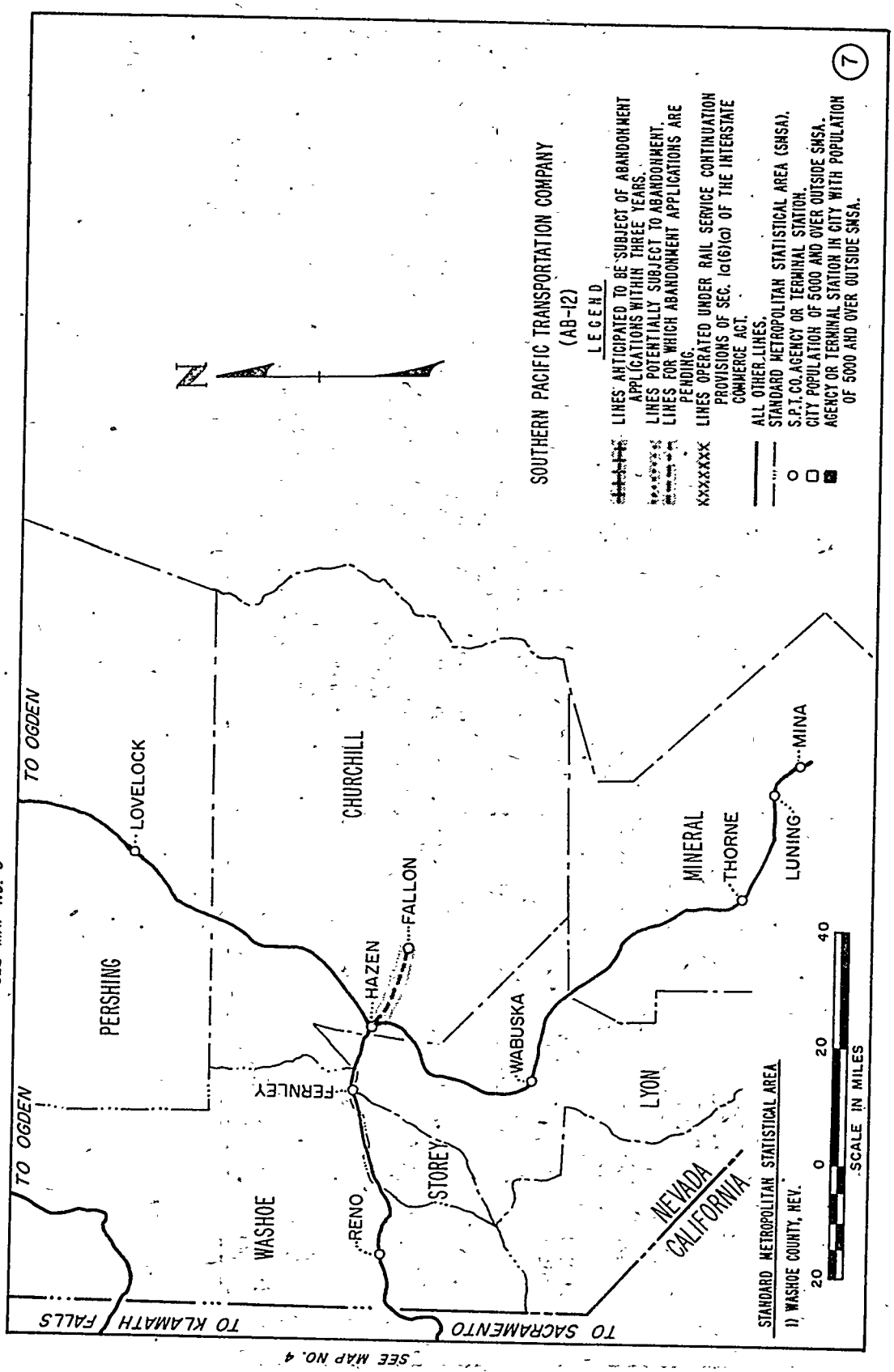

2
N
KLAMATH
LANE
DOUGLAS
COOS
OREGON
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. 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.
STANDARD METROPOLITAN STATISTICAL AREA
11 LANE COUNTY, ORE.
SCALE IN MILES
10 0 10 20
PACIFIC OCEAN
MAPLETON
REEDSPORT
NORTH BEND
COOS BAY
MYRTLE POINT
ROSEBURG
DRAIN
SUTHERLIN
GLENDALE
CHEMULT
OAKRIDGE
COTTAGE GROVE
SPRINGFIELD
HENDRICKS
MOHAWK JCT.
FALL CREEK JCT.
FALL CREEK
EUGENE YARD
SPRINGFIELD JCT.
TO PORTLAND
SEE MAP NO. 1
TO KLAMATH FALLS
SEE MAP NO. 3
TO DUNSMUIR

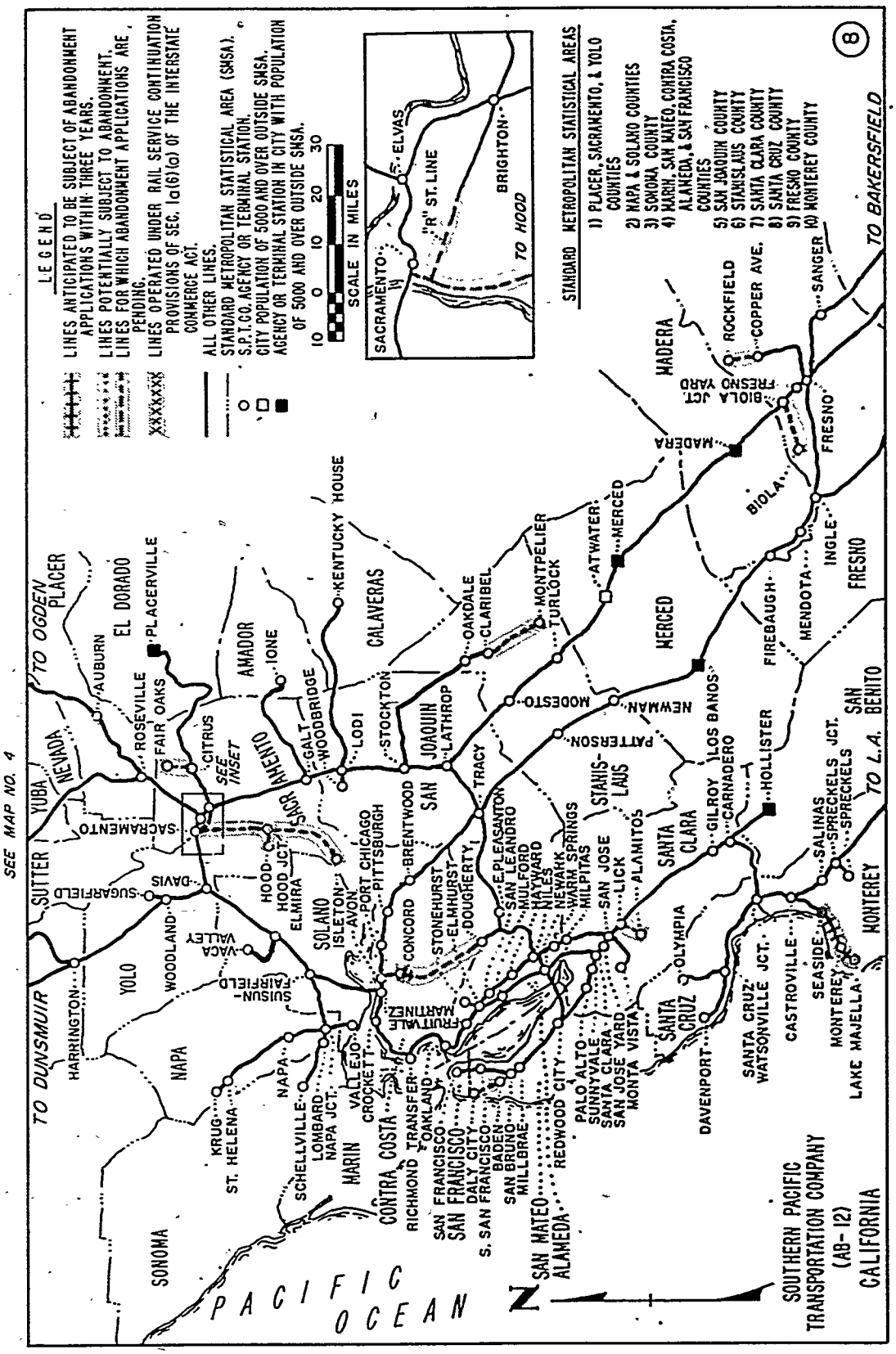

LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. 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.
10 0 10 20
SCALE IN MILES
SEE MAP NO. 2
TO SPRINGFIELD
TO EUGENE
JACKSON
KLAMATH
GRANTS PASS
WHITE CITY
TOLO
MEDFORD
ASHLAND
KLAMATH FALLS
ALTAMONT
OREGON
CALIFORNIA
SISKIYOU
MODOC
TULE LAKE
MACDOEL
MONTAGUE
WEED
BLACK BUTTE
MT. SHASTA
DUNSMUIR
TRINITY
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
ALTURAS
LAKEVIEW
TO TEHAMA
TO FLANIGAN
SEE MAP NO. 4
N
3

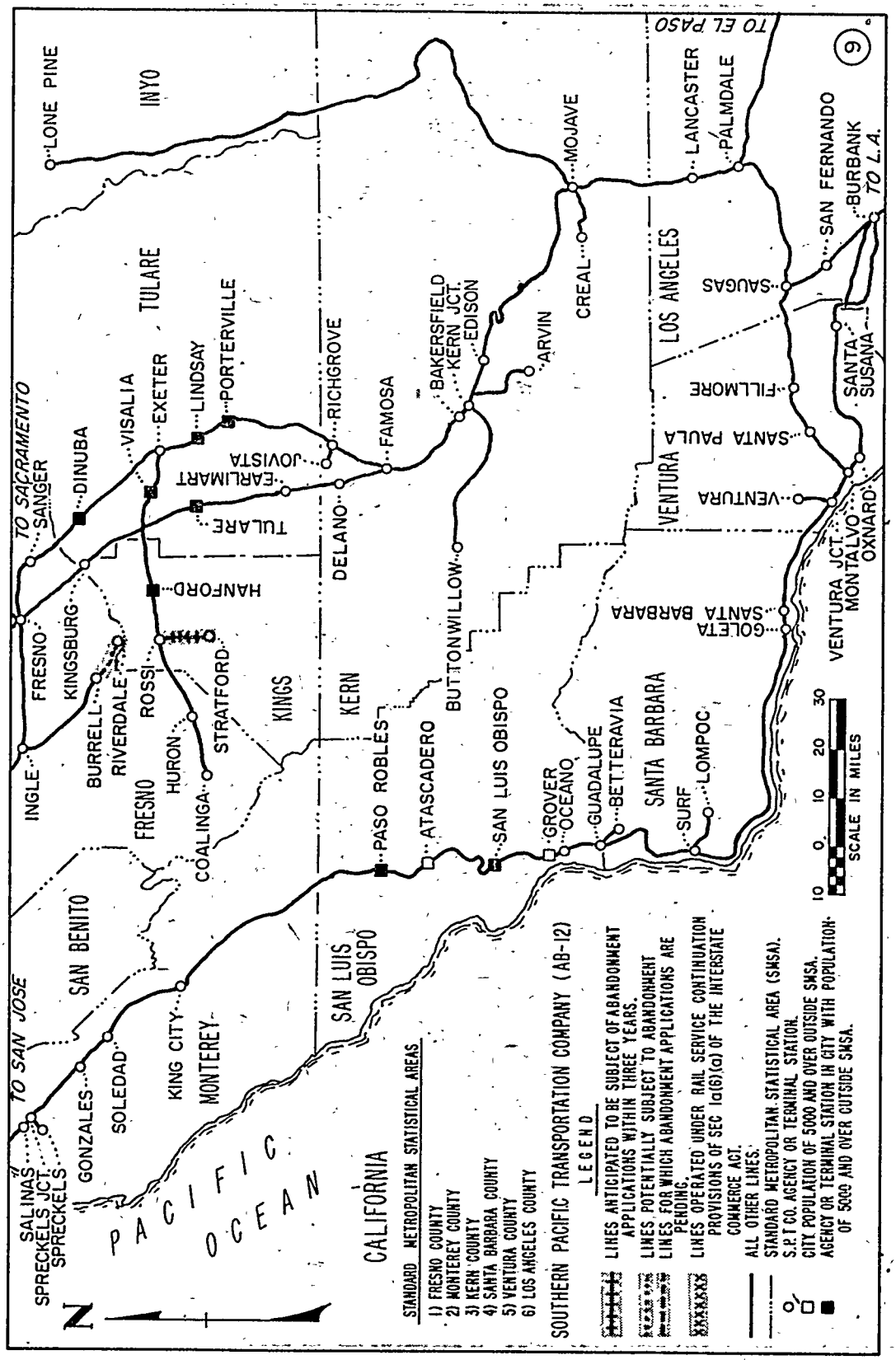

SEE MAP NO. 5
TO OGDEN
TO OGDEN
4
WASHOE
RENO
NEVADA
CALIFORNIA
TO LAKEVIEW
ALTURAS
WENDEL
HERLONG
SIERRA
TRUCKEE
PLACER
TO SACRAMENTO
COLFAX
SUSANVILLE
LASSEN
MODOC
WESTWOOD
STIRLING CITY
NEVADA
YUBA
BINNEY JCT.
MARYSVILLE
LINDA
SEE MAP NO. 3
TO KLAMATH FALLS
PARADISE
BUTTE CREEK
CHICO
BUTTE
OROVILLE
SEE MAP NO. 8
BLACK BUTTE
MT. SHASTA
SISKIYOU
DUNSMUIR
SHASTA
REDDING
ENTERPRISE
ANDERSON
RED BLUFF
TEHAMA
SUTTER
YUBA CITY
TO EUGENE
WEED
MATHESON
KETT
TEHAMA
WYO.
GLENN
ORLAND
HAMILTON
ORDBEND
COLUSA
COLUSA
HARRINGTON
TO SACRAMENTO
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).
S.P.T CO. 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.
STANDARD METROPOLITAN STATISTICAL AREAS
1) WASHOE COUNTY, NEV.
2) PLACER COUNTY, CALIF.
10 0 10 20
SCALE IN MILES
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
N
PACIFIC OCEAN


SEE MAP NO. 6
TO OGDEN
ELKO
CARLIN
CARLIN
BEOWAWE
BEOWAWE
BATTLE MOUNTAIN
WINNEMUCCA
WESO
LOVELOCK
TO SACRAMENTO
SEE MAP NO. 7
TO KLAMATH FALLS
SEE MAP NO. 4
ELKO
EUREKA
LANDER
PERSHING
HUMBOLDT
WASHOE
OREGON
NEVADA
CALIFORNIA
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
N
5
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).
S.P.T. CO. 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.
STANDARD METROPOLITAN STATISTICAL AREA
1) WASHOE COUNTY, NEV.
20 0 20 40
SCALE IN MILES


6
UTAH
IDAHO
NEVADA
BOX ELDER
WEBER
OGDEN
DAVIS
SALT LAKE
GREAT SALT LAKE
TOOELE
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
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).
S.P.T.CO. 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.
N
STANDARD METROPOLITAN STATISTICAL AREA
1) TOOELE, WEBER, DAVIS & SALT LAKE COUNTIES, UTAH
20 0 20 40
SCALE IN MILES
ELKO
ALAZON
WELLS
ELKO
TO KLAMATH FALLS
TO SACRAMENTO
SEE MAP NO. 5


SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
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. (a)(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. 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.
7
N
SEE MAP NO. 5
TO OGDEN
TO OGDEN
LOVELOCK
PERSHING
CHURCHILL
FALLON
HAZEN
FERNLEY
WABUSKA
MINERAL
THORNE
LUNING
MINA
LYON
WASHOE
RENO
STOREY
NEVADA
CALIFORNIA
TO KLAMATH FALLS
TO SACRAMENTO
SEE MAP NO. 4
STANDARD METROPOLITAN STATISTICAL AREA
1) WASHOE COUNTY, NEV.
20 0 20 40
SCALE IN MILES


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).
S.P.T.CO. 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.
SCALE IN MILES
10 0 10 20 30
SACRAMENTO
ELVAS
"R" ST. LINE
BRIGHTON
TO HOOD
STANDARD METROPOLITAN STATISTICAL AREAS
1) PLACER, SACRAMENTO, & YOLO COUNTIES
2) NAPA & SOLANO COUNTIES
3) SONOMA COUNTY
4) MARIN, SAN MATEO, CONTRA COSTA, ALAMEDA, & SAN FRANCISCO COUNTIES
5) SAN JOAQUIN COUNTY
6) STANISLAUS COUNTY
7) SANTA CLARA COUNTY
8) SANTA CRUZ COUNTY
9) FRESNO COUNTY
10) MONTEREY COUNTY
8
SEE MAP NO. 4
SEE MAP NO. 9
TO OGDEN
TO DUNSMUIR
TO BAKERSFIELD
TO L.A.
PACIFIC OCEAN
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12) CALIFORNIA
SUTTER
YUBA
NEVADA
PLACER
EL DORADO
AMADOR
CALAVERAS
SAN JOAQUIN
STANIS-LAUS
MERCED
MADERA
FRESNO
SAN BENITO
MONTEREY
SANTA CLARA
SANTA CRUZ
SAN MATEO
ALAMEDA
CONTRA COSTA
MARIN
SOLANO
YOLO
NAPA
SONOMA
SACRAMENTO
AUBURN
PLACERVILLE
ROSEVILLE
FAIR OAKS
CITRUS
SEE INSET
IONE
GALT
WOODBRIDGE
KENTUCKY HOUSE
LODI
STOCKTON
OAKDALE
CLARIBEL
MONTPELIER
TURLOCK
ATWATER
MERCED
MADERA
BIOLA JCT.
FRESNO YARD
ROCKFIELD
COPPER AVE.
SANGER
FRESNO
BIOLA
INGLE
MENDOTA
FIREBAUGH
LOS BANOS
NEWMAN
MODESTO
PATTERSON
TRACY
JOAQUIN
LATHROP
BRENTWOOD
PORT CHICAGO
PITTSBURGH
CONCORD
STONEHURST
ELMHURST
DOUGHERTY
E. PLEASANTON
SAN LEANDRO
MULFORD
HAYWARD
NILES
NEWARK
WARM SPRINGS
MILPITAS
SAN JOSE
LICK
ALAMITOS
GILROY
CARNADERO
HOLLISTER
SALINAS
SPRECKELS JCT.
SPRECKELS
SEASIDE
MONTEREY
LAKE MAJELLA
CASTROVILLE
SANTA CRUZ WATSONVILLE JCT.
OLYMPIA
DAVENPORT
SANTA CRUZ
SANTA CLARA
SAN JOSE YARD
MONTA VISTA
PALO ALTO
SUNNYVALE
REDWOOD CITY
SAN BRUNO
MILLBRAE
BADEN
S. SAN FRANCISCO
DALY CITY
SAN FRANCISCO
SAN FRANCISCO
RICHMOND
TRANSFER
OAKLAND
FRUITVALE
MARTINEZ
CROCKETT
VALLEJO
NAPA JCT.
LOMBARD
SCHELLVILLE
NAPA
ST. HELENA
KRUG
HARRINGTON
WOODLAND
DAVIS
SUGARFIELD
VACA VALLEY
SUISUN-FAIRFIELD
HOOD JCT.
ELMIRA
ISLETON
AVON
SACR
AMENTO
Z


SEE MAP NO. 8
SEE MAP NO. 10
TO SACRAMENTO
TO SAN JOSE
TO EL PASO
TO L.A.
LONE PINE
INYO
TULARE
DINUBA
VISALIA
EXETER
LINDSAY
PORTERVILLE
SANGER
FRESNO
KINGSBURG
BURRELL
RIVERDALE
ROSSI
HANFORD
STRATFORD
HURON
COALINGA
FRESNO
KINGS
KERN
INGLE
JOVISTA
EARLIMART
TULARE
RICHGROVE
DELANO
FAMOSA
BAKERSFIELD
KERN JCT.
EDISON
BUTTONWILLOW
ARVIN
MOJAVE
CREAL
LANCASTER
PALMDALE
LOS ANGELES
SAUGAS
SAN FERNANDO
BURBANK
SANTA SUSANA
FILLMORE
SANTA PAULA
VENTURA
VENTURA
OXNARD
MONTALVO
VENTURA JCT.
GOLETA
SANTA BARBARA
SANTA BARBARA
LOMPOC
SURF
BETTERAVIA
GUADALUPE
GROVER
OCEANO
SAN LUIS OBISPO
ATASCADERO
PASO ROBLES
SAN LUIS OBISPO
SAN BENITO
MONTEREY
KING CITY
SOLEDAD
GONZALES
SALINAS
SPRECKELS JCT.
SPRECKELS
PACIFIC OCEAN
CALIFORNIA
N
SCALE IN MILES
10 0 10 20 30
STANDARD METROPOLITAN STATISTICAL AREAS
1) FRESNO COUNTY
2) MONTEREY COUNTY
3) KERN COUNTY
4) SANTA BARBARA COUNTY
5) VENTURA COUNTY
6) LOS ANGELES COUNTY
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
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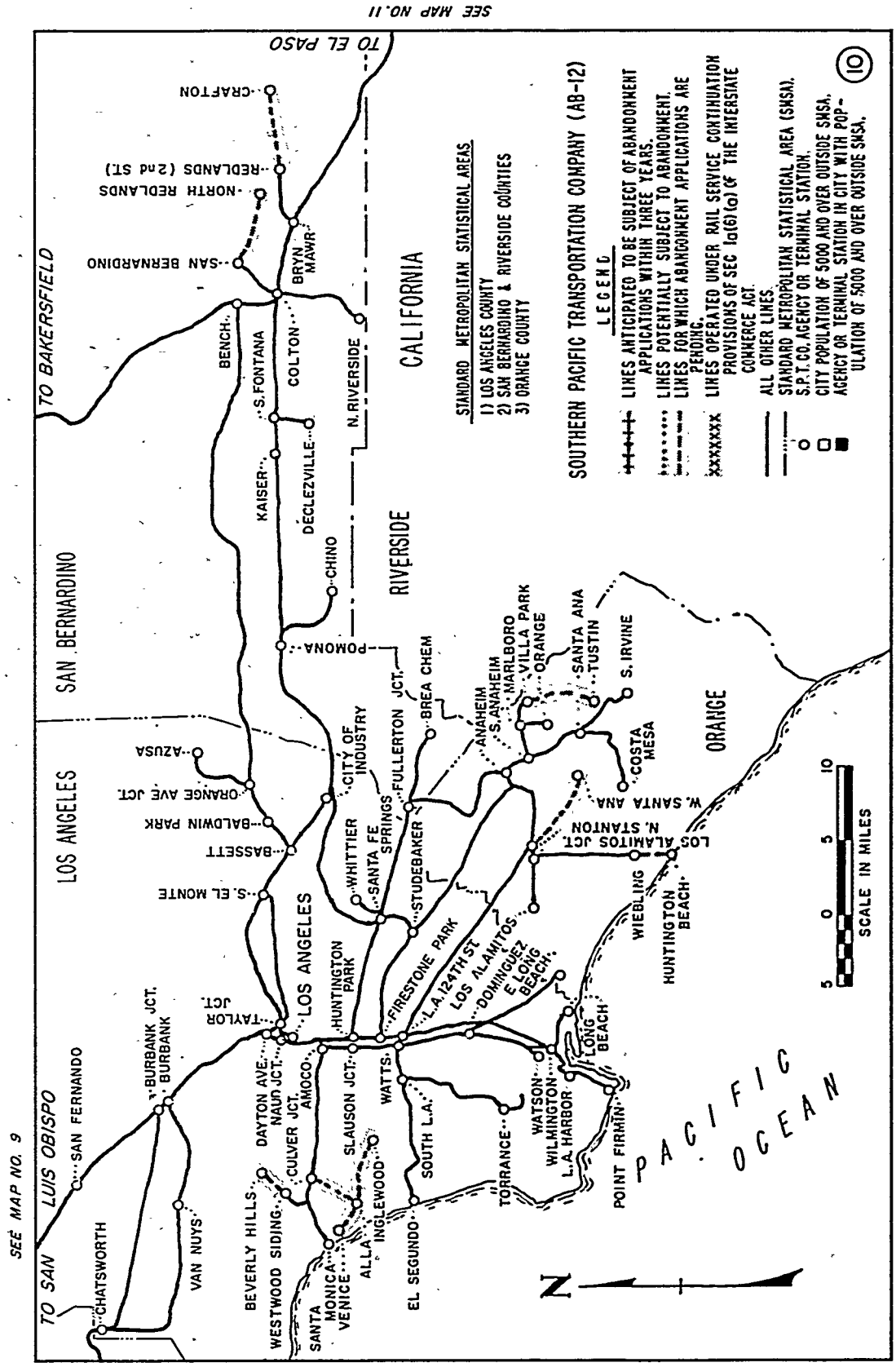
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.


SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
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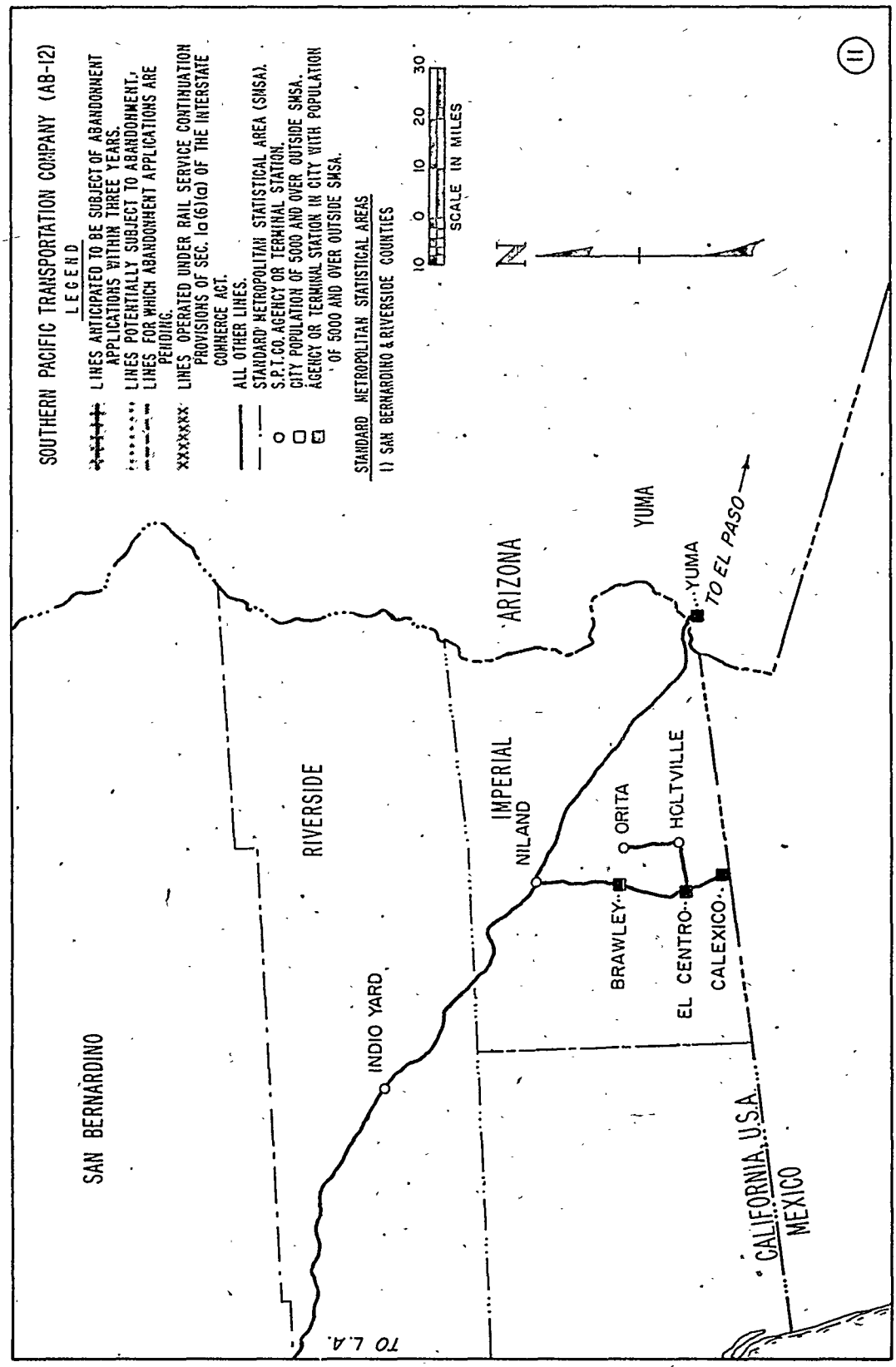
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) LOS ANGELES COUNTY
2) SAN BERNARDINO & RIVERSIDE COUNTIES
3) ORANGE COUNTY
CALIFORNIA
RIVERSIDE
SAN BERNARDINO
LOS ANGELES
ORANGE
PACIFIC OCEAN
TO BAKERSFIELD
TO EL PASO
TO SAN LUIS OBISPO
SEE MAP NO. 11
SEE MAP NO. 9
SCALE IN MILES
10
5
0
5
10
CRAFTON
REDLANDS (2nd ST)
NORTH REDLANDS
SAN BERNARDINO
BRYN MAWR
BENCH
S. FONTANA
COLTON
N. RIVERSIDE
KAISER
DECLEZVILLE
CHINO
POMONA
AZUSA
ORANGE AVE JCT.
BALDWIN PARK
BASSETT
S. EL MONTE
CITY OF INDUSTRY
WHITTIER
SANTA FE SPRINGS
FULLERTON JCT.
BREA CHEM
STUDEBAKER
ANAHEIM
S. ANAHEIM
MARLBORO
VILLA PARK
ORANGE
SANTA ANA
TUSTIN
S. IRVINE
COSTA MESA
W. SANTA ANA
N. STANTON
LOS ALAMITOS JCT.
WIEBLING
HUNTINGTON BEACH
LONG BEACH
E. LONG BEACH
LOS ALAMITOS
DOMINGUEZ
L.A. 124TH ST.
FIRESTONE PARK
HUNTINGTON PARK
LOS ANGELES
TAYLOR JCT.
BURBANK JCT.
BURBANK
SAN FERNANDO
CHATSWORTH
VAN NUYS
DAYTON AVE.
NAUD JCT.
CULVER JCT.
AMOCO
SLAUSON JCT.
WATTS
SOUTH L.A.
INGLEWOOD
BEVERLY HILLS
WESTWOOD SIDING
SANTA MONICA
VENICE
EL SEGUNDO
TORRANCE
WATSON
WILMINGTON
L.A. HARBOR
POINT FIRMIN


SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
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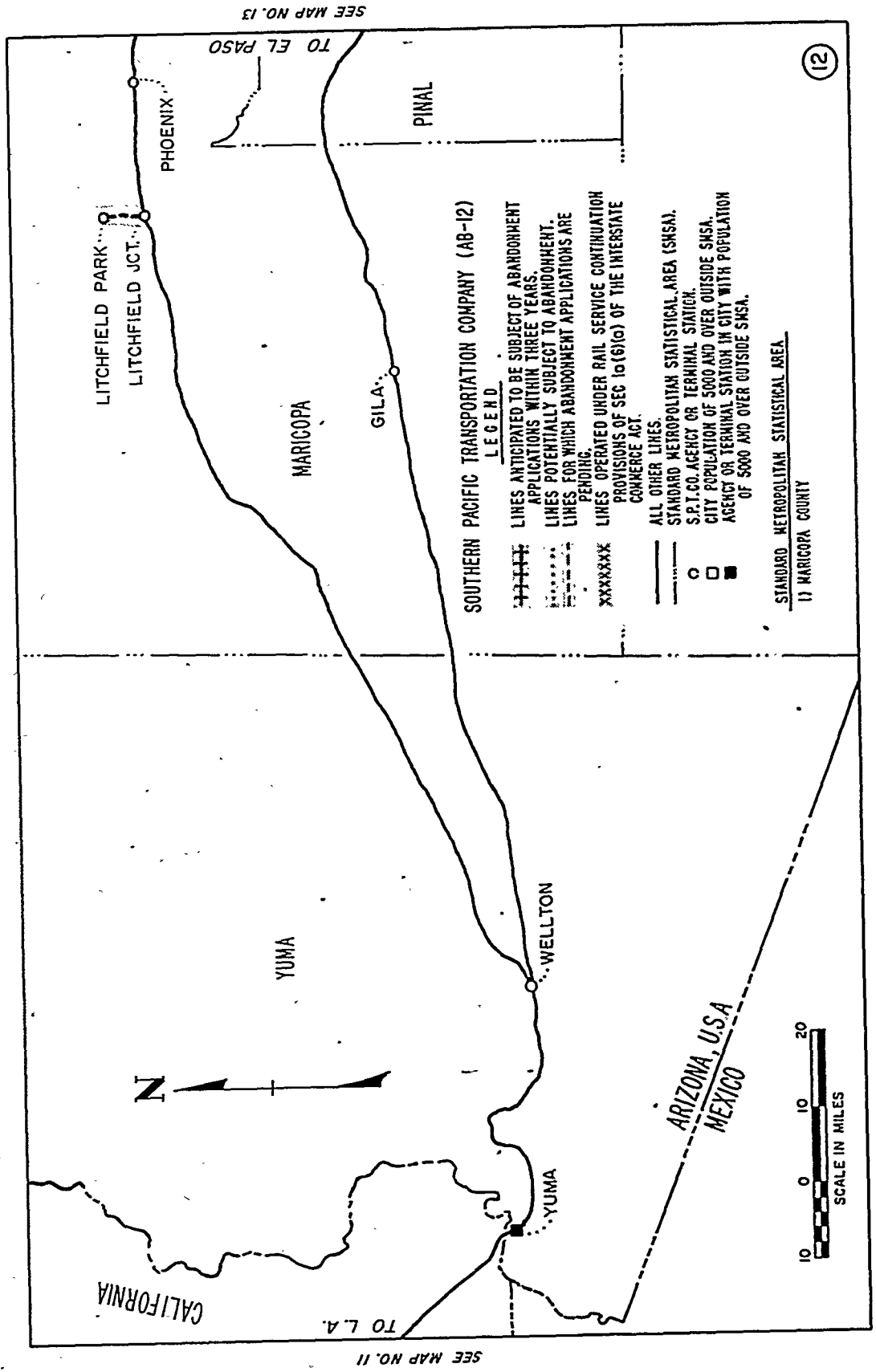
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
11 SAN BERNARDINO & RIVERSIDE COUNTIES
10 0 10 20 30
SCALE IN MILES
N
11
SEE MAP NO. 12
YUMA
TO EL PASO
ARIZONA
YUMA
IMPERIAL
NILAND
ORITA
HOLTVILLE
RIVERSIDE
BRAWLEY
EL CENTRO
CALEXICO
INDIO YARD
SAN BERNARDINO
CALIFORNIA, U.S.A.
MEXICO
TO L.A.
SEE MAP NO. 10


SEE MAP NO. 13
TO EL PASO
PHOENIX
LITCHFIELD PARK
LITCHFIELD JCT.
PINAL
MARICOPA
GILA
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
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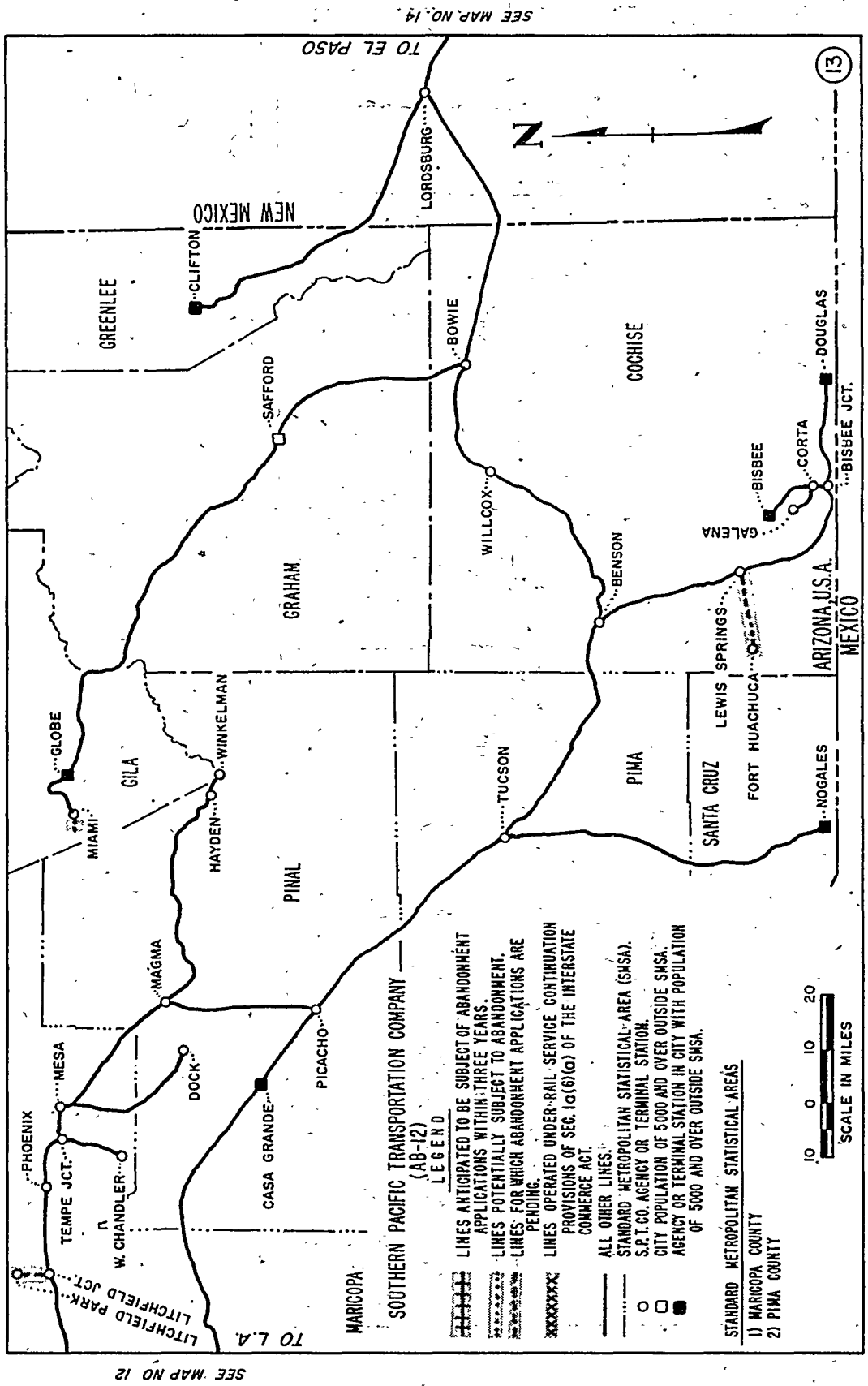
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREA
(1) MARICOPA COUNTY
12
YUMA
WELLTON
YUMA
N
ARIZONA, U.S.A.
MEXICO
SCALE IN MILES
10 0 10 20
CALIFORNIA
TO L.A.
SEE MAP NO. 11


SEE MAP NO. 14
TO EL PASO
13
N
NEW MEXICO
GREENLEE
CLIFTON
LORDSBURG
BOWIE
SAFFORD
COCHISE
DOUGLAS
BISBEE JCT.
CORTA
BISBEE
GALENA
WILLCOX
BENSON
GRAHAM
SPRINGS
ARIZONA, U.S.A.
MEXICO
LEWIS
FORT HUACHUCA
SANTA CRUZ
NOGALES
PIMA
TUCSON
GLOBE
GILA
WINKELMAN
HAYDEN
MIAMI
PINAL
MAGMA
PICACHO
DOCK
MESA
PHOENIX
TEMPE JCT.
W. CHANDLER
CASA GRANDE
LITCHFIELD PARK
LITCHFIELD JCT.
TO L.A.
MARICOPA
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
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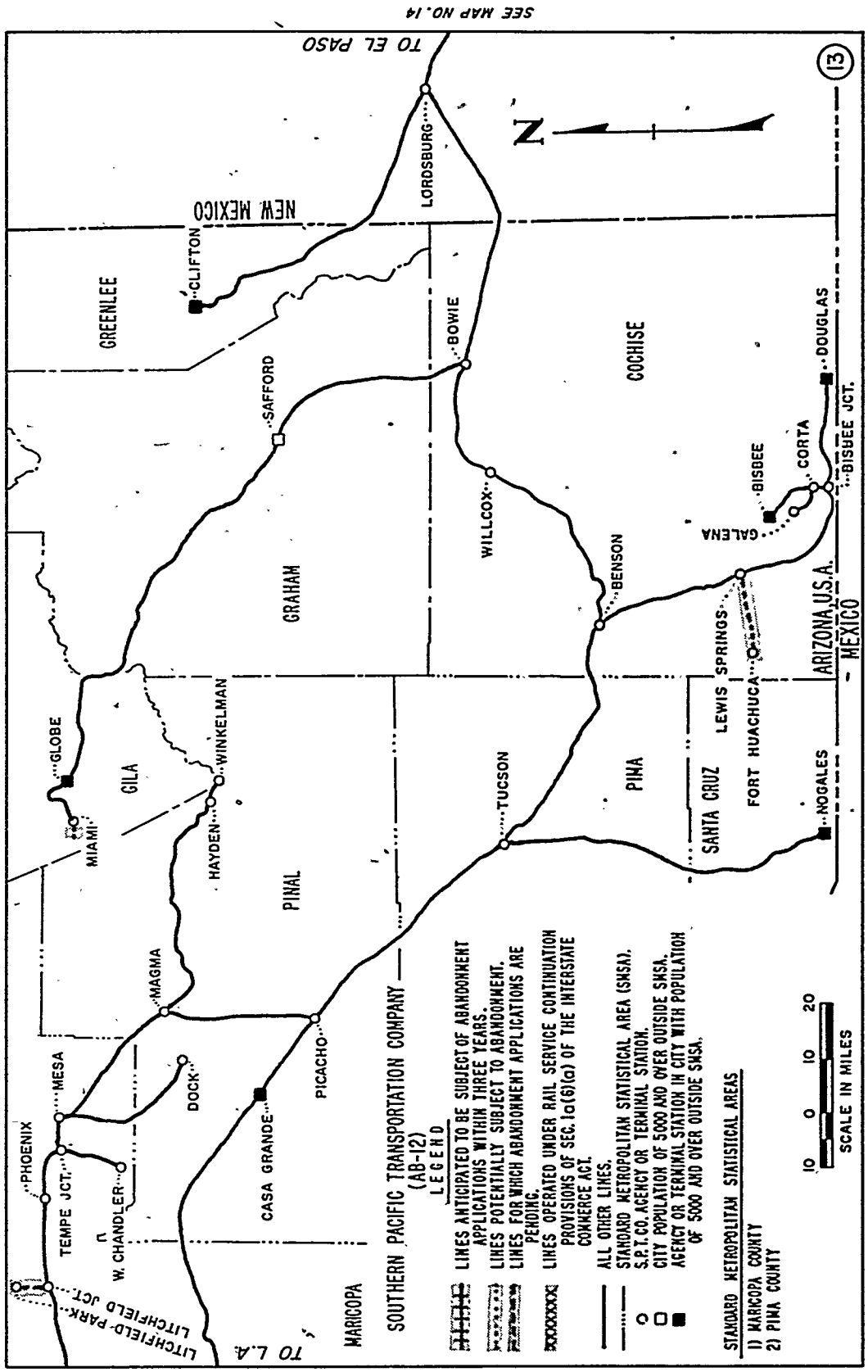
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) MARICOPA COUNTY
2) PIMA COUNTY
10 0 10 20
SCALE IN MILES
SEE MAP NO 12


SEE MAP NO. 14
TO EL PASO
NEW MEXICO
GREENLEE
CLIFTON
LORDSBURG
SAFFORD
BOWIE
COCHISE
DOUGLAS
BISBEE JCT.
CORTA
BISBEE
GALENA
WILLCOX
BENSON
GRAHAM
SPRINGS
LEWIS
FORT HUACHUCA
ARIZONA, U.S.A.
MEXICO
NOGALES
SANTA CRUZ
PIMA
TUCSON
GLOBE
MIAMI
GILA
WINKELMAN
HAYDEN
PINAL
MAGMA
DOCK
PICACHO
CASA GRANDE
MESA
PHOENIX
TEMPE JCT.
W. CHANDLER
LITCHFIELD JCT.
LITCHFIELD-PARK
MARICOPA
TO L.A.
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
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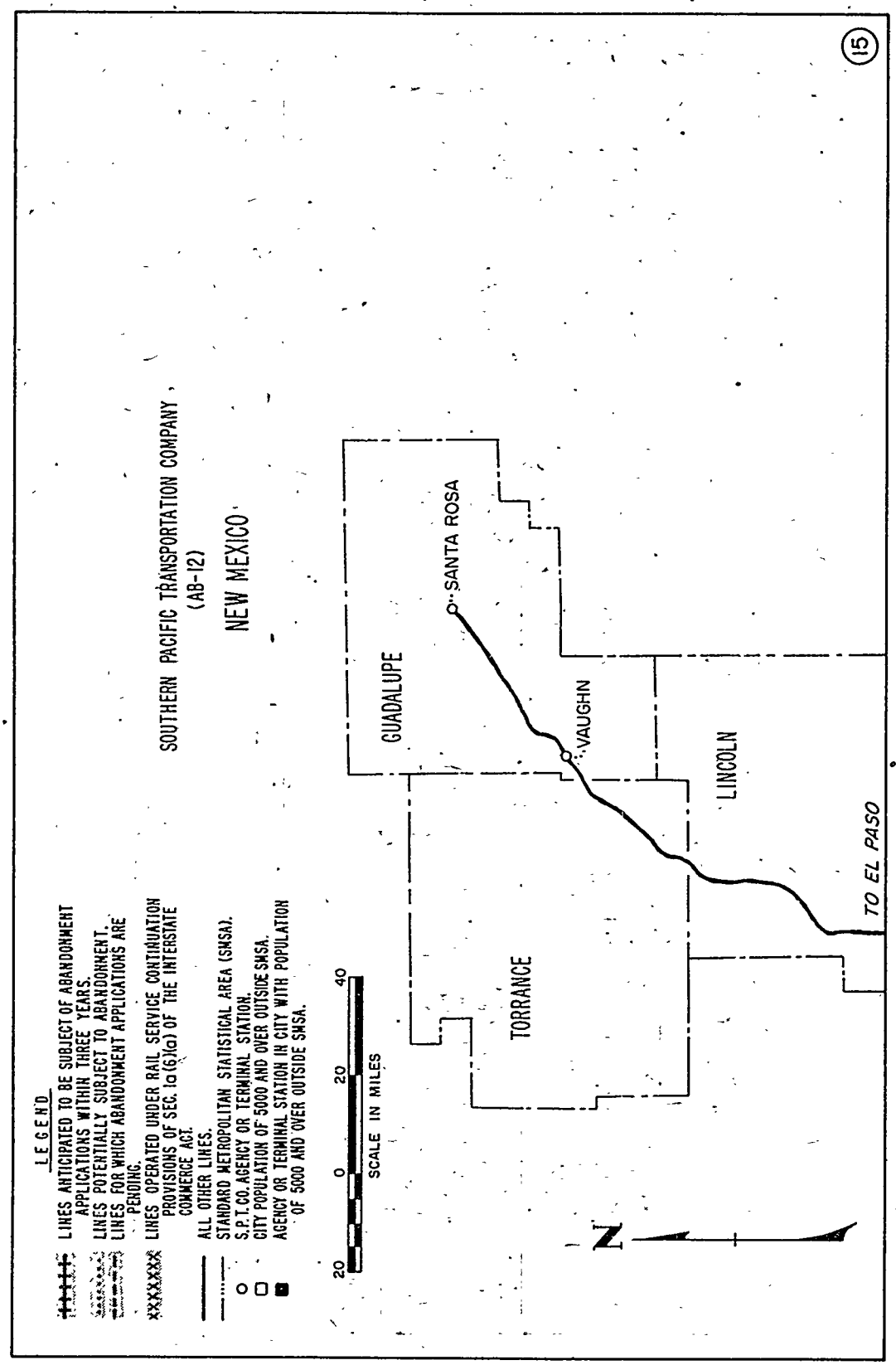
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) MARICOPA COUNTY
2) PIMA COUNTY
10 0 10 20
SCALE IN MILES
SEE MAP NO 12
13


15
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
NEW MEXICO
SANTA ROSA
VAUGHN
GUADALUPE
LINCOLN
TORRANCE
TO EL PASO
SEE MAP NO. 14
N
SCALE IN MILES
20 0 20 40
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
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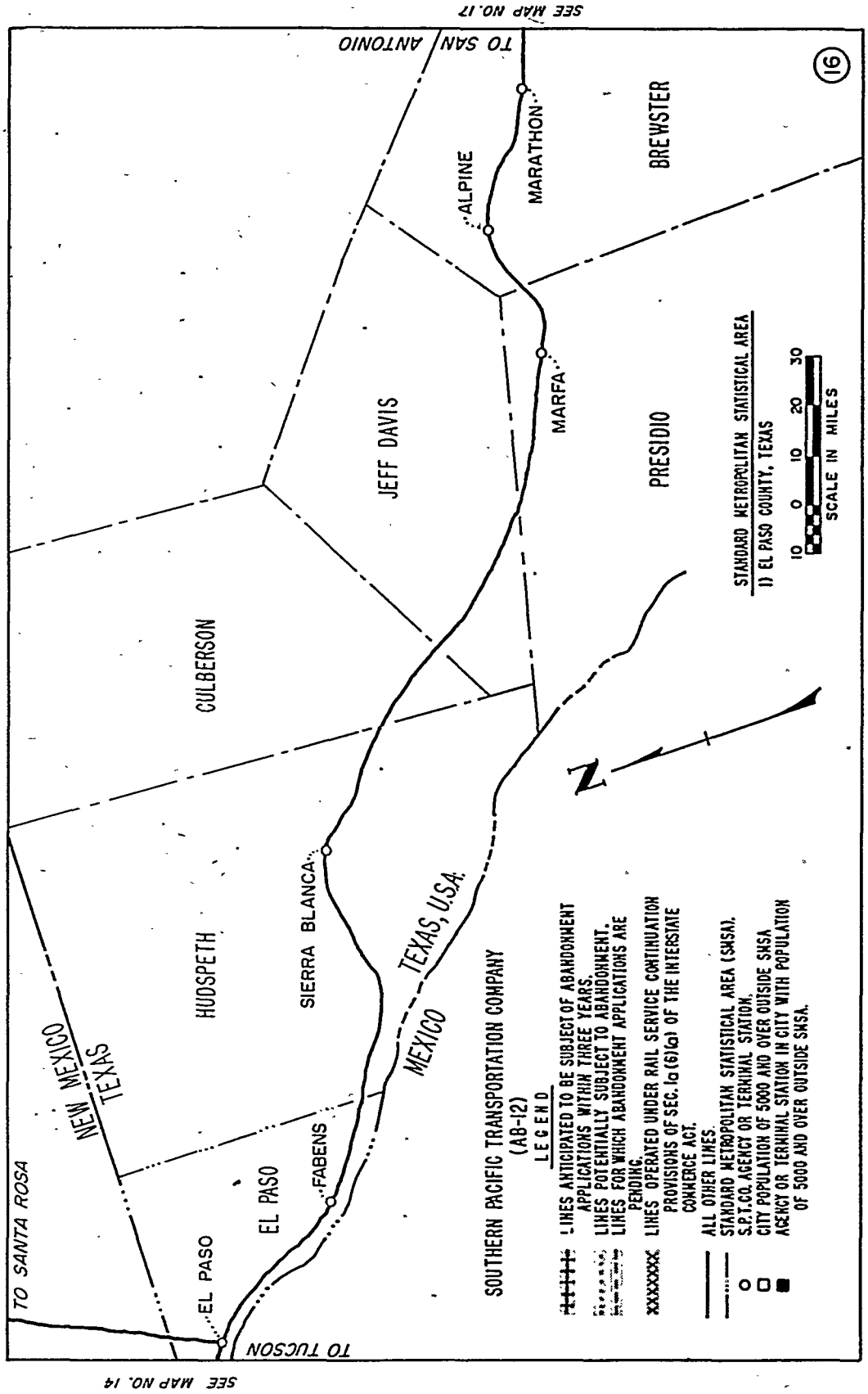
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.


SEE MAP NO. 17
TO SAN ANTONIO
16
ALPINE
MARATHON
BREWSTER
JEFF DAVIS
MARFA
PRESIDIO
CULBERSON
STANDARD METROPOLITAN STATISTICAL AREA
1) EL PASO COUNTY, TEXAS
10 0 10 20 30
SCALE IN MILES
N
HUDSPETH
SIERRA BLANCA
TEXAS, U.S.A.
MEXICO
NEW MEXICO
TEXAS
TO SANTA ROSA
EL PASO
EL PASO
FABENS
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
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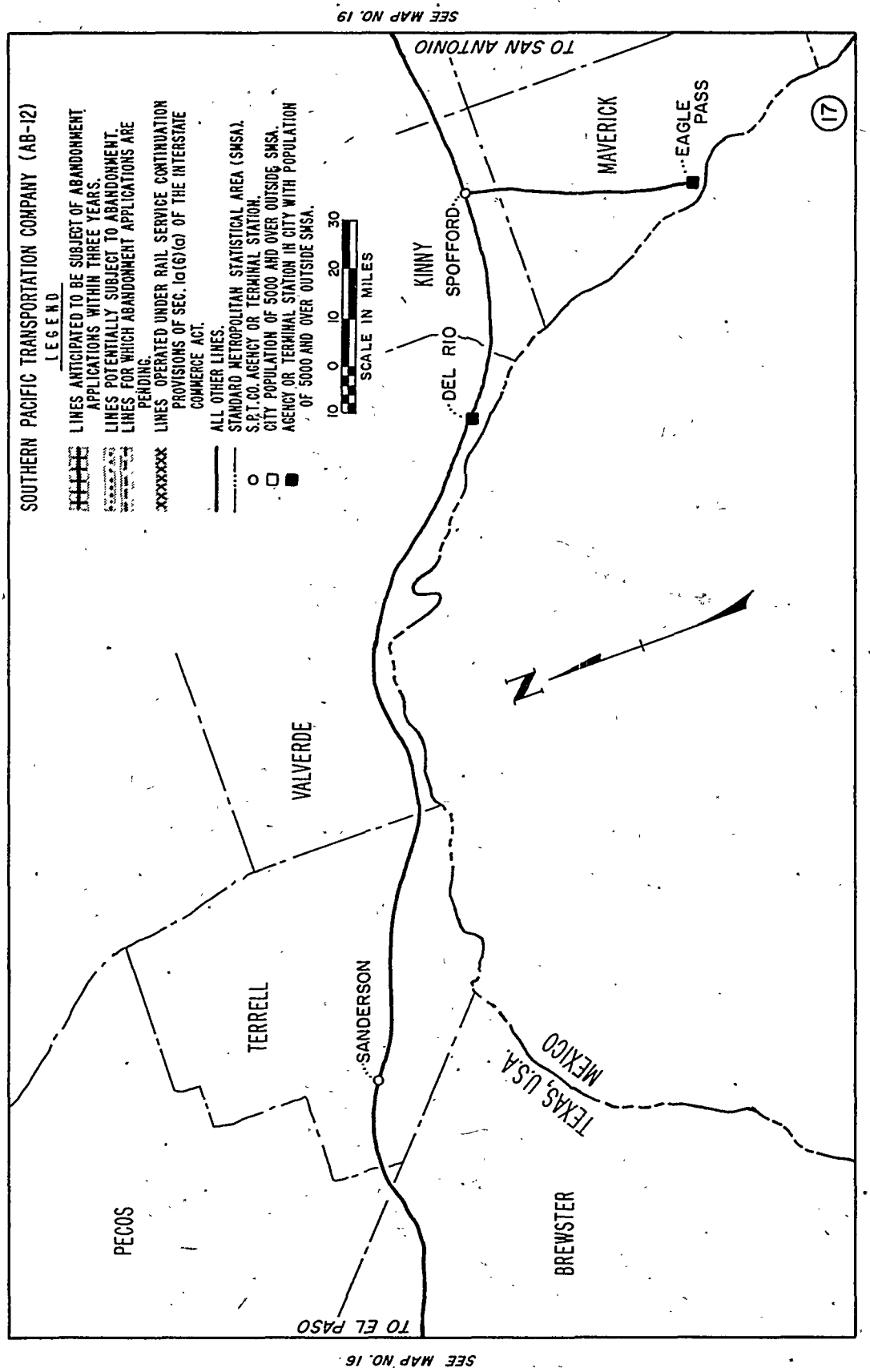
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
TO TUCSON
SEE MAP NO. 14


SEE MAP NO. 19
TO SAN ANTONIO
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
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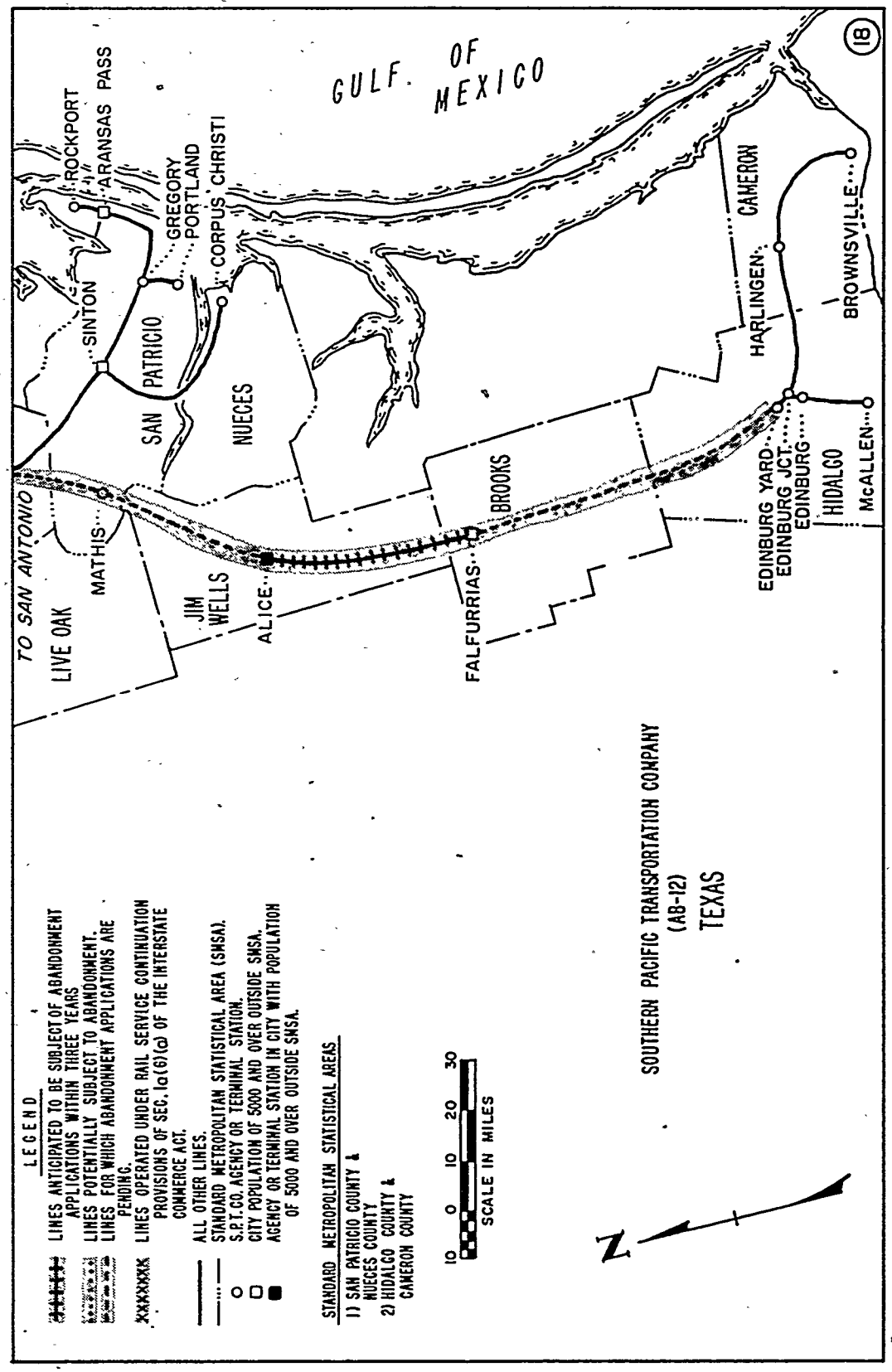
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
10 0 10 20 30
SCALE IN MILES
KINNY
SPOFFORD
DEL RIO
MAVERICK
EAGLE PASS
17
VALVERDE
TERRELL
SANDERSON
PECOS
BREWSTER
TEXAS, U.S.A.
MEXICO
TO EL PASO
SEE MAP NO. 16


SEE MAP NO. 19
TO SAN ANTONIO
LIVE OAK
MATHIS
JIM WELLS
ALICE
FALFURRIAS
BROOKS
SAN PATRICIO
NUECES
SINTON
ROCKPORT
ARANSAS PASS
GREGORY
PORTLAND
CORPUS CHRISTI
GULF OF MEXICO
HARLINGEN
CAMERON
BROWNSVILLE
EDINBURG YARD
EDINBURG JCT.
EDINBURG
HIDALGO
McALLEN
18
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS
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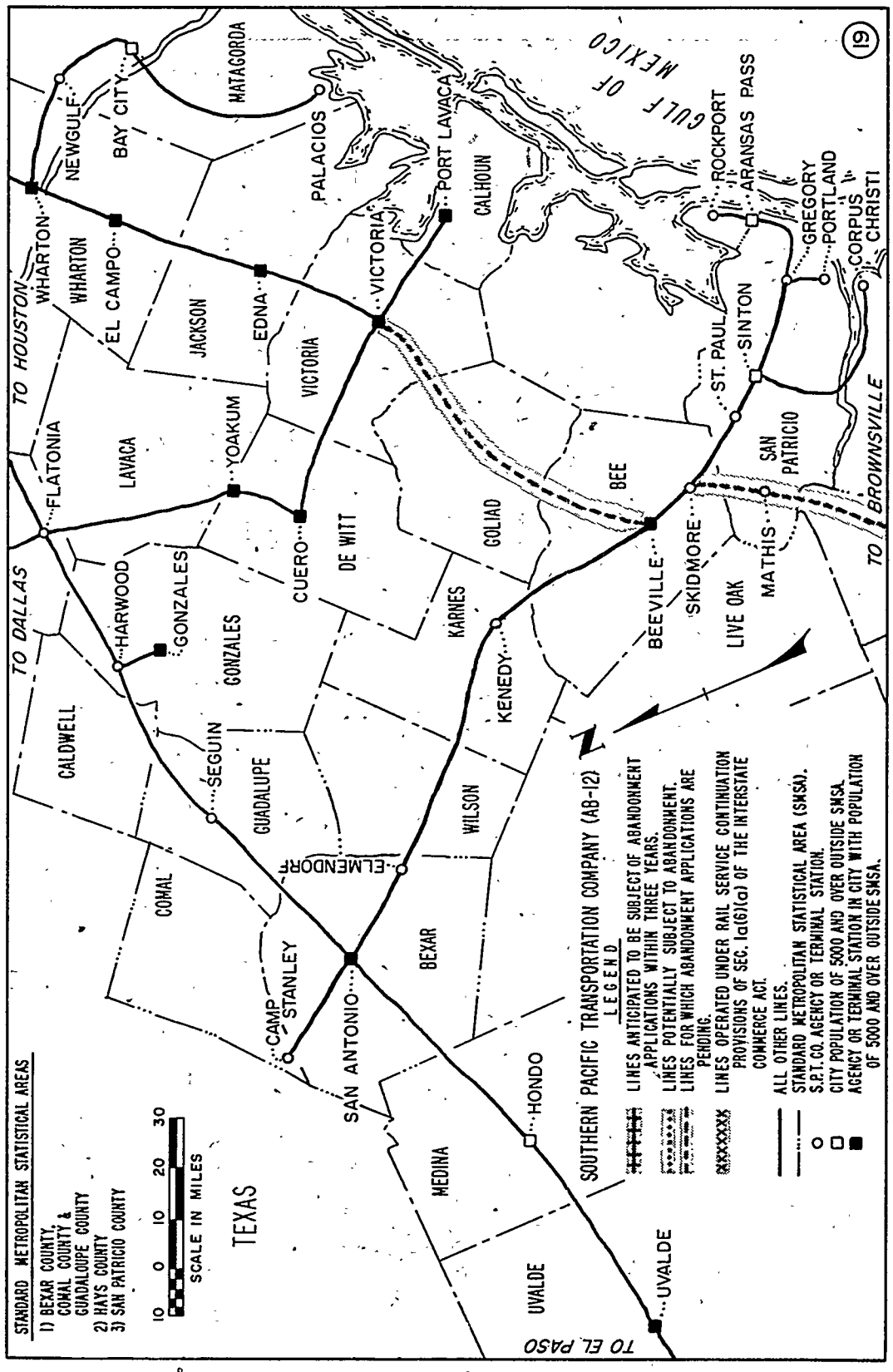
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) SAN PATRICIO COUNTY & NUECES COUNTY
2) HIDALGO COUNTY & CAMERON COUNTY
10 0 10 20 30
SCALE IN MILES
N
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
TEXAS


SEE MAP NO. 20
TO HOUSTON
TO DALLAS
TO BROWNSVILLE
TO EL PASO
SEE MAP NO. 18
SEE MAP NO. 17
19
GULF OF MEXICO
MATAGORDA
BAY CITY
NEWGULF
WHARTON
WHARTON
EL CAMPO
PALACIOS
PORT LAVACA
CALHOUN
VICTORIA
VICTORIA
JACKSON
EDNA
FLATONIA
LAVACA
YOAKUM
CUERO
DE WITT
GOLIAD
KARNES
KENEDY
BEE
BEEVILLE
SKIDMORE
LIVE OAK
MATHIS
SAN PATRICIO
ROCKPORT
ARANSAS PASS
SINTON
ST. PAUL
GREGORY
PORTLAND
CORPUS CHRISTI
HARWOOD
GONZALES
GONZALES
CALDWELL
SEGUIN
GUADALUPE
ELMENDORF
COMAL
CAMP STANLEY
SAN ANTONIO
BEXAR
WILSON
HONDO
MEDINA
UVALDE
UVALDE
TEXAS
SCALE IN MILES
10 0 10 20 30
STANDARD METROPOLITAN STATISTICAL AREAS
1) BEXAR COUNTY, COMAL COUNTY & GUADALOUPE COUNTY
2) HAYS COUNTY
3) SAN PATRICIO COUNTY
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
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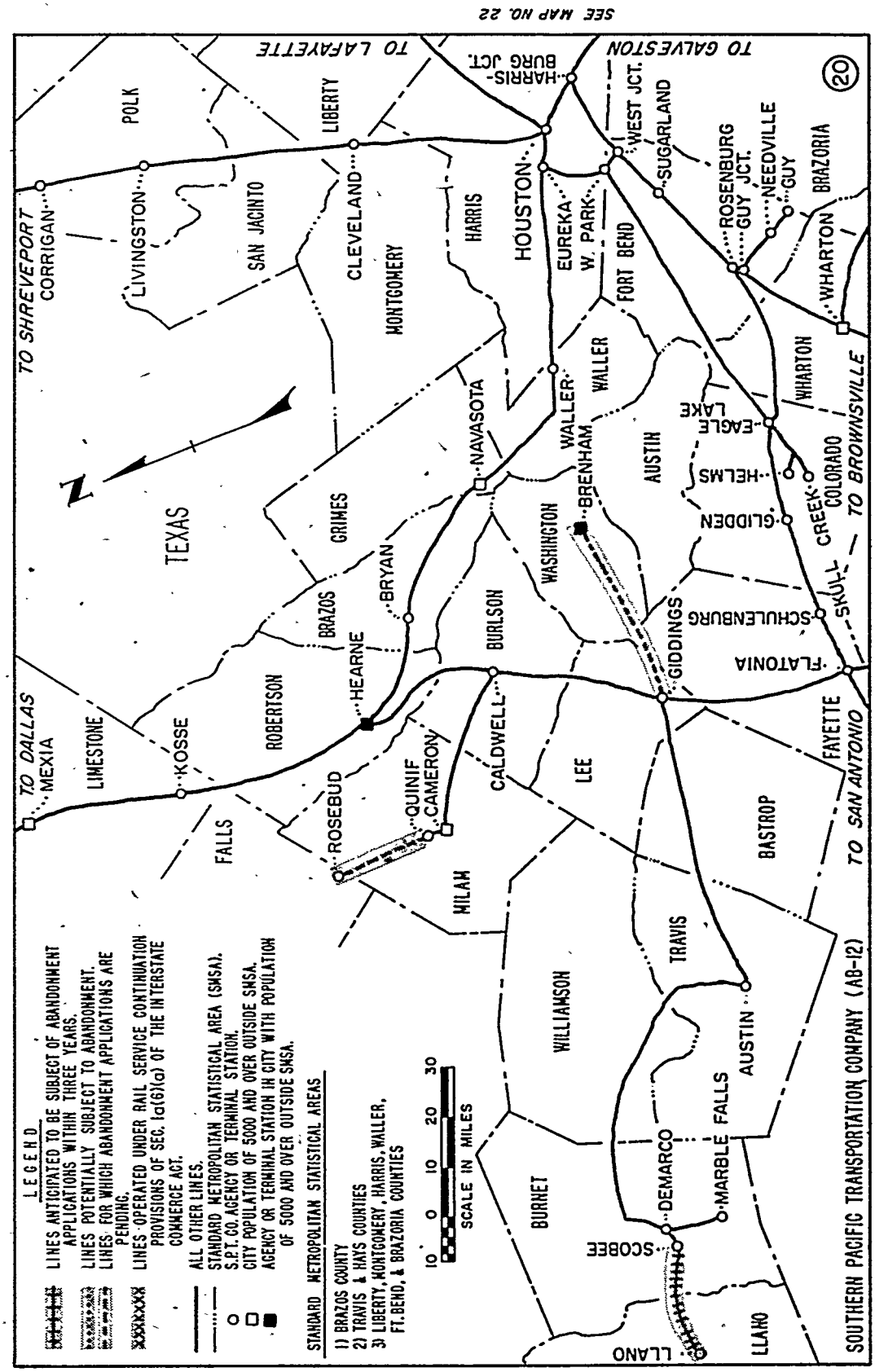
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.


SEE MAP NO. 22
TO LAFAYETTE
TO GALVESTON
HARRIS-BURG JCT.
WEST JCT.
SUGARLAND
ROSENBURG
GUY JCT.
NEEDVILLE
GUY
BRAZORIA
WHARTON
20
POLK
LIBERTY
HOUSTON
EUREKA
W. PARK
FORT BEND
HARRIS
CLEVELAND
MONTGOMERY
SAN JACINTO
LIVINGSTON
TO SHREVEPORT
CORRIGAN
TEXAS
N
GRIMES
NAVASOTA
WALLER
WALLER
BRENHAM
AUSTIN
EAGLE LAKE
HELMS
GLIDDEN
WHARTON
COLORADO
CREEK
TO BROWNSVILLE
SKULL
WASHINGTON
BRYAN
BRAZOS
BURLSON
GIDDINGS
SCHULENBURG
FLATONIA
HEARNE
ROBERTSON
TO DALLAS
MEXIA
LIMESTONE
KOSSE
CALDWELL
CAMERON
QUINIF
ROSEBUD
FALLS
LEE
FAYETTE
TO SAN ANTONIO
SEE MAP NO. 19
BASTROP
MILAM
TRAVIS
WILLIAMSON
AUSTIN
MARBLE FALLS
DEMARCO
BURNET
SCOBEE
LLANO
LLANO
SEE MAP NO. 21
LEGEND
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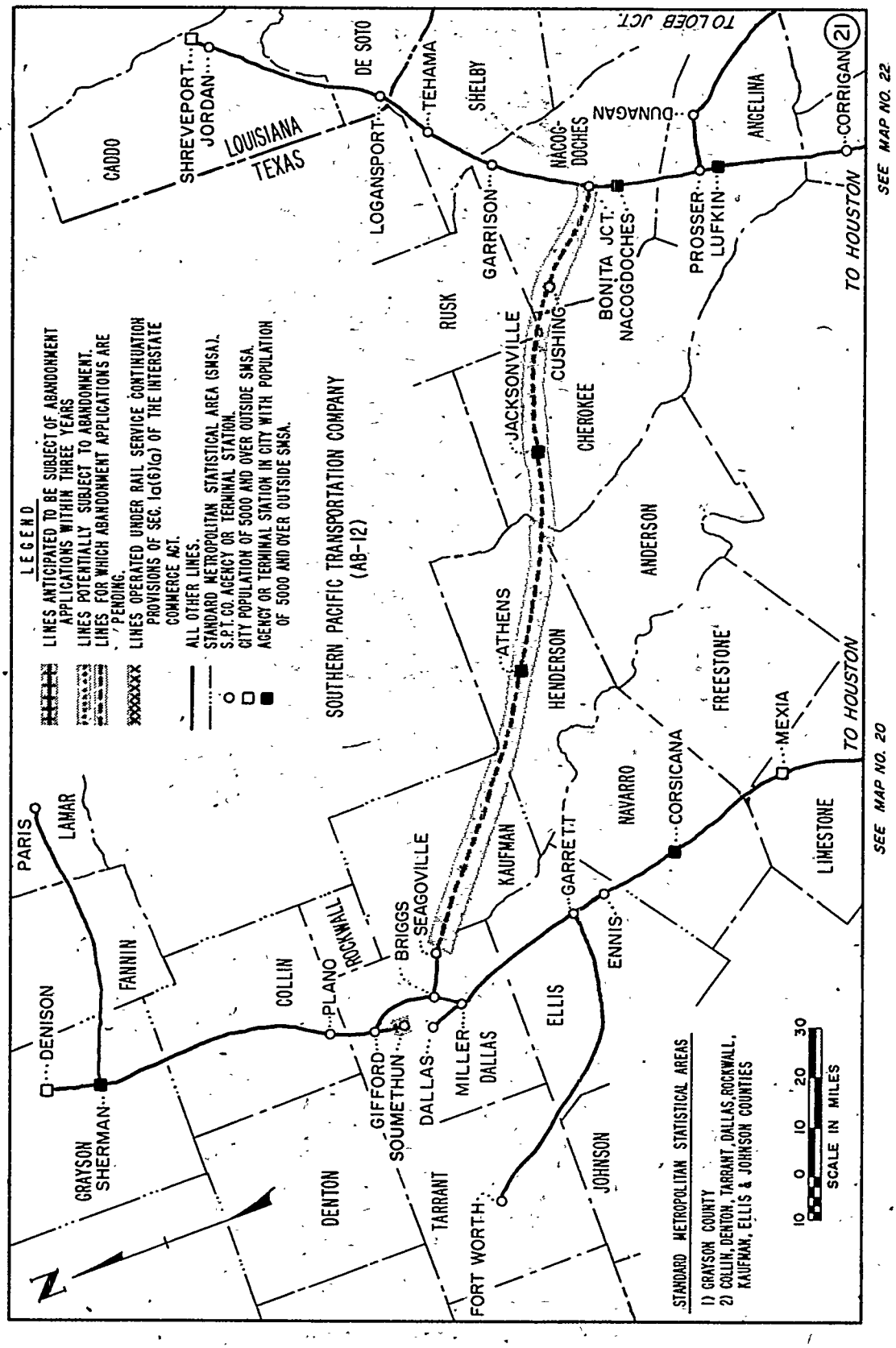
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) BRAZOS COUNTY
2) TRAVIS & HAYS COUNTIES
3) LIBERTY, MONTGOMERY, HARRIS, WALLER, FT. BEND, & BRAZORIA COUNTIES
10 0 10 20 30
SCALE IN MILES
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)



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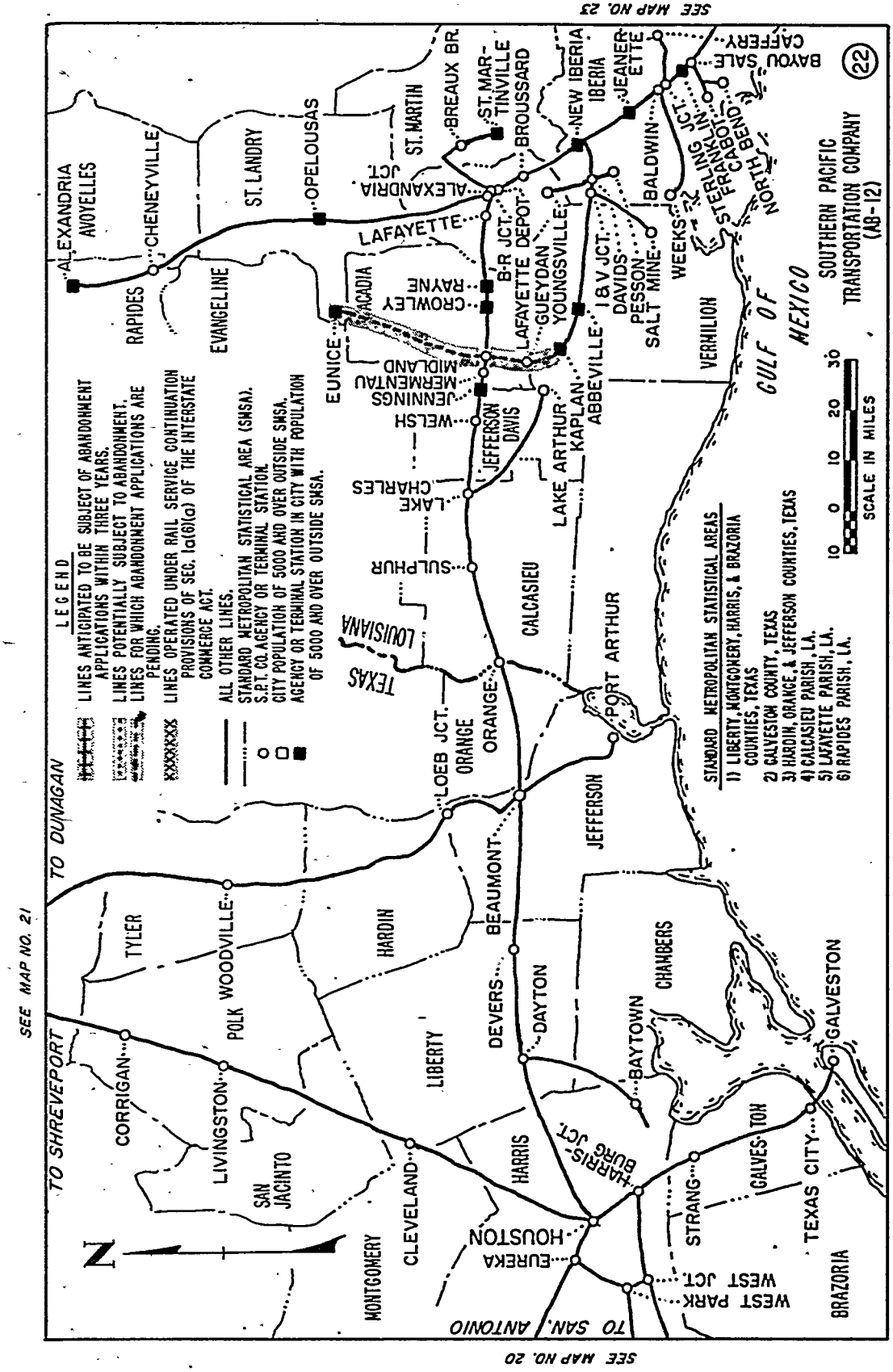
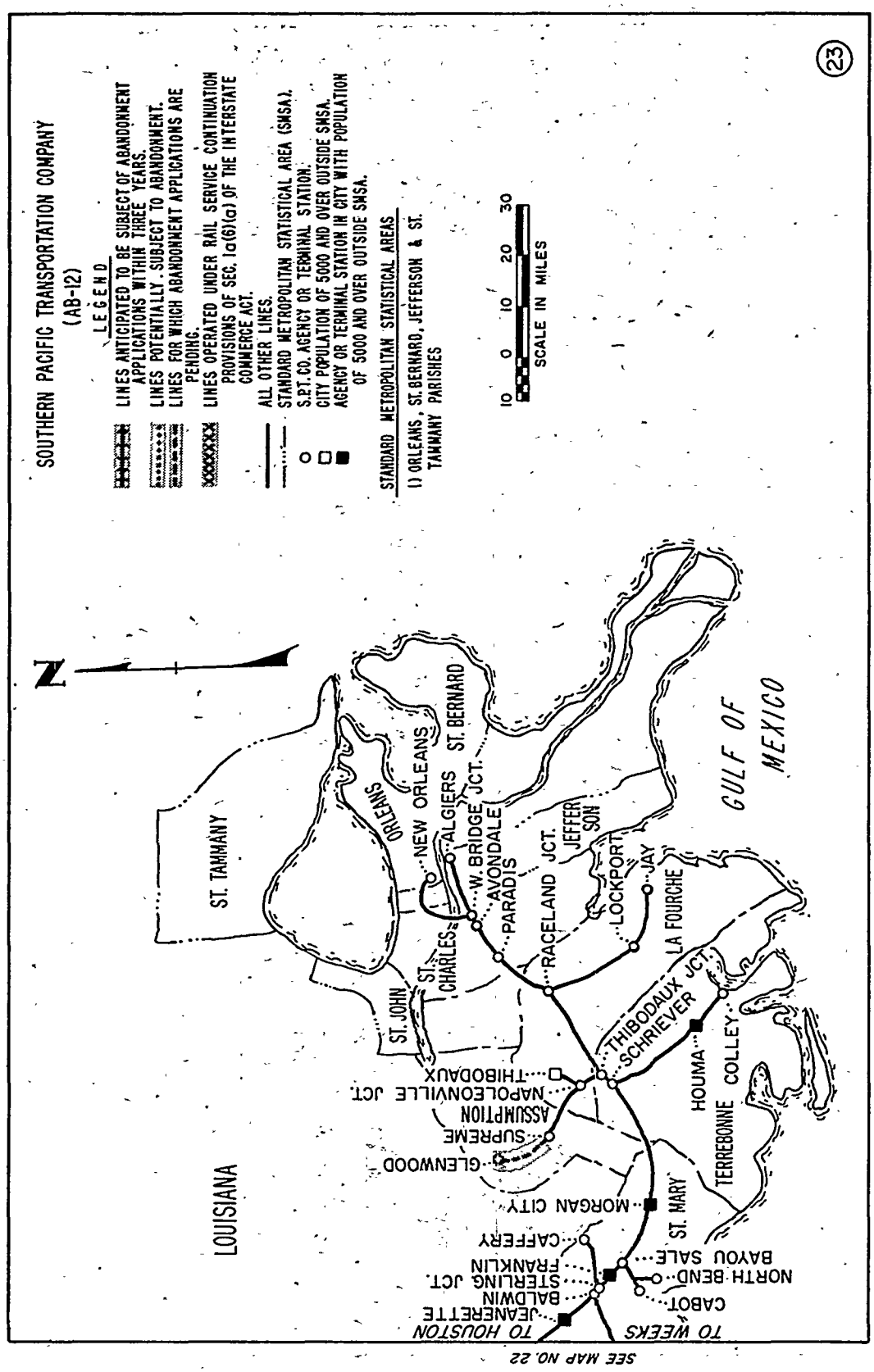

SEE MAP NO. 23
SEE MAP NO. 21
SEE MAP NO. 20
TO DUNAGAN
TO SHREVEPORT
TO SAN ANTONIO
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. 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.
STANDARD METROPOLITAN STATISTICAL AREAS
1) LIBERTY, MONTGOMERY, HARRIS, & BRAZORIA COUNTIES, TEXAS
2) GALVESTON COUNTY, TEXAS
3) HARDIN, ORANGE, & JEFFERSON COUNTIES, TEXAS
4) CALCASIEU PARISH, LA.
5) LAFAYETTE PARISH, LA.
6) RAPIDES PARISH, LA.
SCALE IN MILES
10 0 10 20 30
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
22
GULF OF MEXICO
TEXAS
LOUISIANA
ALEXANDRIA
AVOYELLES
CHENEYVILLE
ST. LANDRY
OPELOUSAS
ST. MARTIN
BREAUX BR.
ST. MARTINVILLE
BROUSSARD
NEW IBERIA
IBERIA
JEANERETTE
BAYOU SALE
CAFFERY
ALEXANDRIA JCT.
LAFAYETTE
B-R JCT.
LAFAYETTE DEPOT
GUEYDAN
YOUNGSVILLE
I & V JCT.
DAVIDS
PESSON
SALT MINE
BALDWIN
WEEKS
STERLING JCT.
FRANKLIN
CABOT
BEND
NORTH
RAPIDES
EVANGELINE
ACADIA
CROWLEY
RAYNE
EUNICE
MIDLAND
MERMENTAU
JENNINGS
WELSH
JEFFERSON DAVIS
LAKE CHARLES
SULPHUR
LAKE ARTHUR
KAPLAN
ABBEVILLE
VERMILION
CALCASIEU
PORT ARTHUR
LOEB JCT.
ORANGE
JEFFERSON
BEAUMONT
TYLER
WOODVILLE
HARDIN
POLK
LIBERTY
DEVERS
DAYTON
BAYTOWN
CHAMBERS
GALVESTON
CORRIGAN
LIVINGSTON
SAN JACINTO
CLEVELAND
HARRIS
HARRISBURG JCT.
STRANG
GALVESTON
TEXAS CITY
MONTGOMERY
HOUSTON
EUREKA
WEST JCT.
WEST PARK
BRAZORIA
N


SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
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LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
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CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
(1) ORLEANS, ST. BERNARD, JEFFERSON & ST. TAMMANY PARISHES
10 0 10 20 30
SCALE IN MILES
23
N
LOUISIANA
ST. TAMMANY
ORLEANS
NEW ORLEANS
ST. BERNARD
ALGIERS
JCT.
W. BRIDGE
AVONDALE
PARADIS
RACELAND JCT.
JEFFER SON
LOCKPORT
JAY
LA FOURCHE
GULF OF MEXICO
ST. JOHN
ST. CHARLES
THIBODAUX JCT.
SCHRIEVER
HOUMA
COLLEY
TERREBONNE
THIBODAUX
NAPOLEONVILLE JCT.
ASSUMPTION
SUPREME
GLENWOOD
MORGAN CITY
ST. MARY
CAFFERY
FRANKLIN
STERLING JCT.
BALDWIN
JEANERETTE
BAYOU SALE
NORTH BEND
CABOT
TO HOUSTON
TO WEEKS
SEE MAP NO. 22

SOUTHERN PACIFIC TRANSPORTATION 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 Southern Pacific Transportation Company as shown on the system diagram map:

Lines Anticipated to be Subject of Abandonment Applications Within Three Years

OREGON

(1) (a) Designation of Line: Dallas Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Marion.
(d) Milepost Locations: 718.36 to 719.74 at or near Salem.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

CALIFORNIA

(1) (a) Designation of Line: Matheson Branch.
(b) States in which Located: California.
(c) Counties in which Located: Shasta.
(d) Milepost Locations: 263.2 at or near Kett to 267.2 at or near Matheson.
(e) Agency or Terminal Stations on the Line: Kett (milepost 263.2), Matheson (milepost 267.2).

(Map No. 4)

(2) (a) Designation of Line: Monterey Branch.
(b) States in which Located: California.
(c) Counties in which Located: Monterey.
(d) Milepost Locations: 123.30 at or near Seaside to 130.0 at or near Lake Majella.
(e) Agency or Terminal Stations on the Line: Seaside (milepost 123.3), Monterey (milepost 125.7), Lake Majella (milepost 130.0).

(Map No. 8)

(3) (a) Designation of Line:—San Ramon Branch.
(b) States in which Located: California.
(c) Counties in which Located: Contra Costa.
(d) Milepost Locations: 40.29 to 42.60 at or near Concord.
(e) Agency or Terminal Stations on the Line: Concord (milepost 42.5).

(Map No. 8)

(4) (a) Designation of Line: Stratford Branch.
(b) States in which Located: California.
(c) Counties in which Located: Kings.
(d) Milepost Locations: 263.438 at or near Rossi to 271.69 at or near Stratford.
(e) Agency or Terminal Stations on the Line: Stratford (milepost 271.1), Rossi (milepost 263.5).

(Map No. 9)

TEXAS

(1) (a) Designation of Line: Brownsville Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Jim Wells, Brooks.
(d) Milepost Locations: 40.9 at or near Alice to 80.2 at or near Falfurrias.
(e) Agency or Terminal Stations on the Line: Alice (milepost 43.2), Falfurrias (milepost 79.6).

(Map No. 18)

(2) (a) Designation of Line: Llano Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Burnet, Llano.
(d) Milepost Locations: 74.0 at or near Scobee to 99.07 at or near Llano.
(e) Agency or Terminal Stations on the Line: Llano (milepost 98.8).

(Map No. 20)

(3) (a) Designation of Line: Soumethun Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Dallas.
(d) Milepost Locations: 269.813 to 269.156 at or near Soumethun.
(e) Agency or Terminal Stations on the Line: Soumethun (milepost 269.4).

(Map No. 21)

Lines for Which Abandonment Applications are Pending Before the Interstate Commerce Commission

OREGON

(1) (a) Designation of Line: Dallas Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Polk.
(d) Milepost Locations: 721.41 at or near Winona to 729.01 at or near Gerlinger.
(e) Agency or Terminal Stations on the Line: Winona (milepost 722.6).

(Map No. 1)

(2) (a) Designation of Line: Woodburn—Springfield Branch.
(b) States in which Located. Oregon.
(c) Counties in which Located: Marion, Linn.
(d) Milepost Locations: 704.68 at or near Shelburn to 708.11 at or near West Stayton.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

(3) (a) Designation of Line: Woodburn—Springfield Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Lane, Linn.
(d) Milepost Locations: 644.889 at or near Springfield to 669.800 at or near Brownsville.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

(4) (a) Designation of Line: Fall Creek Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Lane.
(d) Milepost Locations: 610.49 at or near Fall Creek Junction to 608.35 at or near Fall Creek.
(e) Agency or Terminal Stations on the Line: Fall Creek (milepost 608.4).

(Map No. 2)

CALIFORNIA

(1) (a) Designation of Line: Westwood Branch.
(b) States in which Located: California.
(c) Counties in which Located: Lassen.
(d) Milepost Locations: 381.900 at or near Susanville to 412.433 at or near Westwood.
(e) Agency or Terminal Stations on the Line: Westwood (milepost 411.3).

(Map No. 4)

(2) (a) Designation of Line: Stirling City Branch.
(b) States in which Located: California.
(c) Counties in which Located: Butte.
(d) Milepost Locations: 189.00 at or near Butte Creek to 215.462 at or near Stirling City.
(e) Agency or Terminal Stations on the Line: Stirling City (milepost 215.4).

(Map No. 4)

(3) (a) Designation of Line: Colusa Branch.
(b) States in which Located: California.
(c) Counties in which Located: Glenn.
(d) Milepost Locations: 169.0 at or near Hamilton to 161.7 at or near Ordbend.
(e) Agency or Terminal Stations on the Line: Ordbend (milepost 162.1).

(Map No. 4)

(4) (a) Designation of Line: Fair Oaks Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 104.37 at or near Citrus to 106.36 at or near Fair Oaks.
(e) Agency or Terminal Stations on the Line: Fair Oaks (milepost 106.3).

(Map No. 8)

(5) (a) Designation of Line: "R" Street Line.
(b) State in which Located: California.
(c) Counties in which Located Sacramento.
(d) Milepost Locations: 89.592 to 91.225 at or near Sacramento.
(e) Agency or Terminal Stations in the Line: None.

(Map No. 8)

(6) (a) Designation of Line: Walnut Grove Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 91.10 at or near Sacramento to 104.96 at or near Hood.
(e) Agency or Terminal Stations on the Line: Hood Junction (milepost 104.6), Hood (milepost 105.3 (on spur from Hood Jct.).)

(Map No. 8)

(7) (a) Designation of Line: Walnut Grove Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 104.96 at or near Hood Junction to 122 11 at or near Isleton.
(e) Agency or Terminal Stations on the Line: Isleton (milepost 121.9).

(Map No. 8)

(8) (a) Designation of Line: San Ramon Branch.
(b) States in which Located: California.
(c) Counties in which Located: Contra Costa, Alameda.
(d) Milepost Locations: 42.60 at or near Concord to 62.10 at or near Dougherty.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 8)

(9) (a) Designation of Line: San Bruno Branch.
(b) States in which Located: California.
(c) Counties in which Located: San Mateo.
(d) Milepost Locations: 7.39 at or near Daly City to 10.80 at or near Baden.
(e) Agency or Terminal Stations on the Line: Daly City (milepost 7.4).

(Map No. 8)

(10) (a) Designation of Line: Oakdale Branch.
(b) States in which Located: California.
(c) Counties in which Located: Stanislaus.
(d) Milepost Locations: 127.02 at or near Claribel to 140.29 at or near Montpellier.
(e) Agency or Terminal Stations on the Line: Montpellier (milepost 139.8).

(Map No. 8)

(11) (a) Designation of Line: Lick Branch.
(b) States in which Located: California.
(c) Counties in which Located: Santa Clara.
(d) Milepost Locations: 55.24 at or near Lick to 58.97 at or near Alamitos.
(e) Agency or Terminal Stations on the Line: Alamitos (milepost 58.9).

(Map No. 8)

(12) (a) Designation of Line: Biola Branch.
(b) States in which Located: California.
(c) Counties in which Located: Fresno.
(d) Milepost Locations: 208.617 at or near Biola Junction to 199.934 at or near Biola.
(e) Agency or Terminal Stations on the Line: Biola (milepost 200.5).

(Map No. 8)

(13) (a) Designation of Line: Clovis Branch.
(b) States in which Located: California.
(c) Counties in which Located: Fresno.
(d) Milepost Locations: 223.15 at or near Copper Avenue to 225.77 at or near Rockfield.
(e) Agency or Terminal Stations on the Line: Rockfield (milepost 225.7).

(Map No. 8)

(14) (a) Designation of Line: Riverdale Branch.
(b) States in which Located: California.
(c) Counties in which Located: Fresno.
(d) Milepost Locations: 208.73 at or near Burrell to 214.85 at or near Riverdale.
(e) Agency or Terminal Stations on the Line: Riverdale (milepost 214.6).

(Map No. 9)

(15) (a) Designation of Line: West Los Angeles Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 501.62 at or near Westwood Siding to 502.84 at or near Beverly Hills.
(e) Agency or Terminal Stations on the Line: Beverly Hills (milepost 502.5).

(Map No. 10)

(16) (a) Designation of Line: Alla Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 498.017 at or near Alla to 495.385 at or near Venice.
(e) Agency or Terminal Stations on the Line: Venice (milepost 495.385).

(Map No. 10)

(17) (a) Designation of Line: Alla Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 494.249 at or near Culver Junction to 498.017 at or near Alla.
(e) Agency or Terminal Stations on the Line: Alla (milepost 498.1).

(Map No. 10)

(18) (a) Designation of Line: Inglewood Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 498.112 at or near Alla to 502.200 at or near Inglewood.
(e) Agency or Terminal Stations on the Line: Inglewood (milepost 502).

(Map No. 10)

(19) (a) Designation of Line: West Santa Ana.
(b) States in which Located: California.
(c) Counties in which Located: Orange.
(d) Milepost Locations: 507.811 at or near North Stanton to 514.965 at or near West Santa Ana.
(e) Agency or terminal Stations on the Line: West Santa Ana (milepost 514.9), North Stanton (milepost 508.0).

(Map No. 10)

(20) (a) Designation of Line: Tustin Branch.
(b) States in which Located: California.
(c) Counties in which Located: Orange.
(d) Milepost Locations: 516.655 at or near Villa Park to 522.408 at or near Tustin.
(e) Agency or Terminal Stations on the Line: Villa Park (milepost 516.7), Tustin (milepost 522.4).

(Map No. 10)

(21) (a) Designation of Line: Stanton Branch.
(b) States in which Located: California.
(c) Counties in which Located: Orange.
(d) Milepost Locations: 522.56 at or near Wiebling to 524.65 at or near Huntington Beach.
(e) Agency or Terminal Stations on the Line: Huntington Beach (milepost 524.5).

(Map No. 10)

(22) (a) Designation of Line: San Bernardino Branch.
(b) States in which Located: California.
(c) Counties in which Located: San Bernardino.
(d) Milepost Locations: 542.09 at or near San Bernardino to 549.37 at or near North Redlands.
(e) Agency or Terminal Stations on the Line: North Redlands (milepost 549.2).

(Map No. 10)

(23) (a) Designation of Line: Redlands Branch.
(b) States in which Located: California.
(c) Counties in which Located: San Bernardino.
(d) Milepost Locations: 547.86 at or near Redlands (2nd Street) to 551.57 at or near Crafton.
(e) Agency or Terminal Stations on the Line: Redlands (2nd Street) (milepost 547.86), Crafton (milepost 551.4).

(Map No. 10)

NEVADA

(1) (a) Designation of Line: Fallon Branch.
(b) States in which Located: Nevada.
(c) Counties in which Located: Churchill.
(d) Milepost Locations: 288.713 at or near Hazen to 304.561 at or near Fallon.
(e) Agency or Terminal Stations on the Line: Fallon (milepost 303.9).

(Map No. 7)

ARIZONA

(1) (a) Designation of Line: Litchfield Branch.
(b) States in which Located: Arizona.
(c) Counties in which Located: Maricopa.
(d) Milepost Locations: 892.25 to 894.26 at or near Litchfield Park.
(e) Agency or Terminal Stations on the Line: Litchfield Park (milepost 894.0).

(Map No. 12 and 13)

(2) (a) Designation of Line: Globe Branch.
(b) States in which Located: Arizona.
(c) Counties in which Located: Gila.
(d) Milepost Locations: 1232.57 to 1232.98 at or near Miami.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 13)

(3) (a) Designation of Line: Fort Huachuca Branch.
(b) State in which Located: Arizona.
(c) County in which Located: Cochise.
(d) Milepost Locations: 1058.77 at or near Lewis Springs to 1070.99 at or near Fort Huachuca.
(e) Agency or Terminal Stations on the Line: Lewis Springs (milepost 1058.8), Fort Huachuca (milepost 1070.8).

(Map No. 13)

TEXAS

(1) (a) Designation of Line: Brownsville Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Brooks, Hidalgo.
(d) Milepost Locations: 80.2 at or near Falfurrias to 138.9 at or near Edinburg.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 18)

(2) (a) Designation of Line: Beeville Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Bee, San Patricio, Jim Wells.
(d) Milepost Locations: 1.0 at or near Skidmore to 40.9 at or near Alice.
(e) Agency or Terminal Stations on the Line: Mathis (milepost 14.1).

(Map No. 18 and 19)

(3) (a) Designation of Line: Beeville Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Victoria, Goliad, Bee.
(d) Milepost Locations: 93.7 at or near Victoria to 145.0 at or near Beeville.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 19)

(4) (a) Designation of Line: Cameron Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Falls, Milam.
(d) Milepost Locations: 119.7 at or near Quinif to 133.70 at or near Rosebud.
(e) Agency or Terminal Stations on the Line: Rosebud (milepost 133.3).

(Map No. 20)

(5) (a) Designation of Line: Austin Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Washington, Lee, Fayette.
(d) Milepost Locations: 20.86 at or near Brenham to 55.78 at or near Giddings.
(e) Agency or Terminal Stations on the Line: Brenham (milepost 21.0).

(Map No. 20)

(6) (a) Designation of Line: Athens Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Dallas, Kaufman, Henderson, Anderson, Cherokee.
(d) Milepost Locations: 298.70 at or near Seagoville to 203.43 at or near Jacksonville.
(e) Agency or Terminal Stations on the Line: Athens (milepost 243.0).

(Map No. 21)

(7) (a) Designaiton of Line: Jacksonville Branch.
(b) States in which Located: Texas.

(c) Counties in which Located: Cherokee, Rusk, Nacogdoches.

(d) Milepost Locations: 203.43 at or near Jacksonville to 154.56 at or near Bonita Junction.

(e) Agency or Terminal Stations on the Line: Jacksonville (milepost 201.2), Cushing (milepost 172.1), Bonita Junction (milepost 154.6).

(Map No. 21)

LOUISIANA

(1) (a) Designation of Line: Midland Branch.

(b) States in which Located: Louisiana.

(c) Counties in which Located: Vermilion, St. Landry, Acadia.

(d) Milepost Locations: 31.0 at or near Kaplan to 80.56 at or near Eunice.

(e) Agency or Terminal Stations on the Line: Eunice (milespost 79.4), Gueydan (milepost 45.3).

(Map No. 22)

(2) (a) Designation of Line: Napoleonville Branch.

(b) States in which Located: Louisiana.

(c) Counties in which Located: Assumption.

(d) Milepost Locations: 15.28 at or near Supreme to 23.14 at or near Glenwood.

(e) Agency or Terminal Stations on the Line: Glenwood (milepost 22.9).

(Map No. 23)

[FR Doc.77-13936 Filed 5-17-77;8:45 am]

[AB 39 (SDM)]

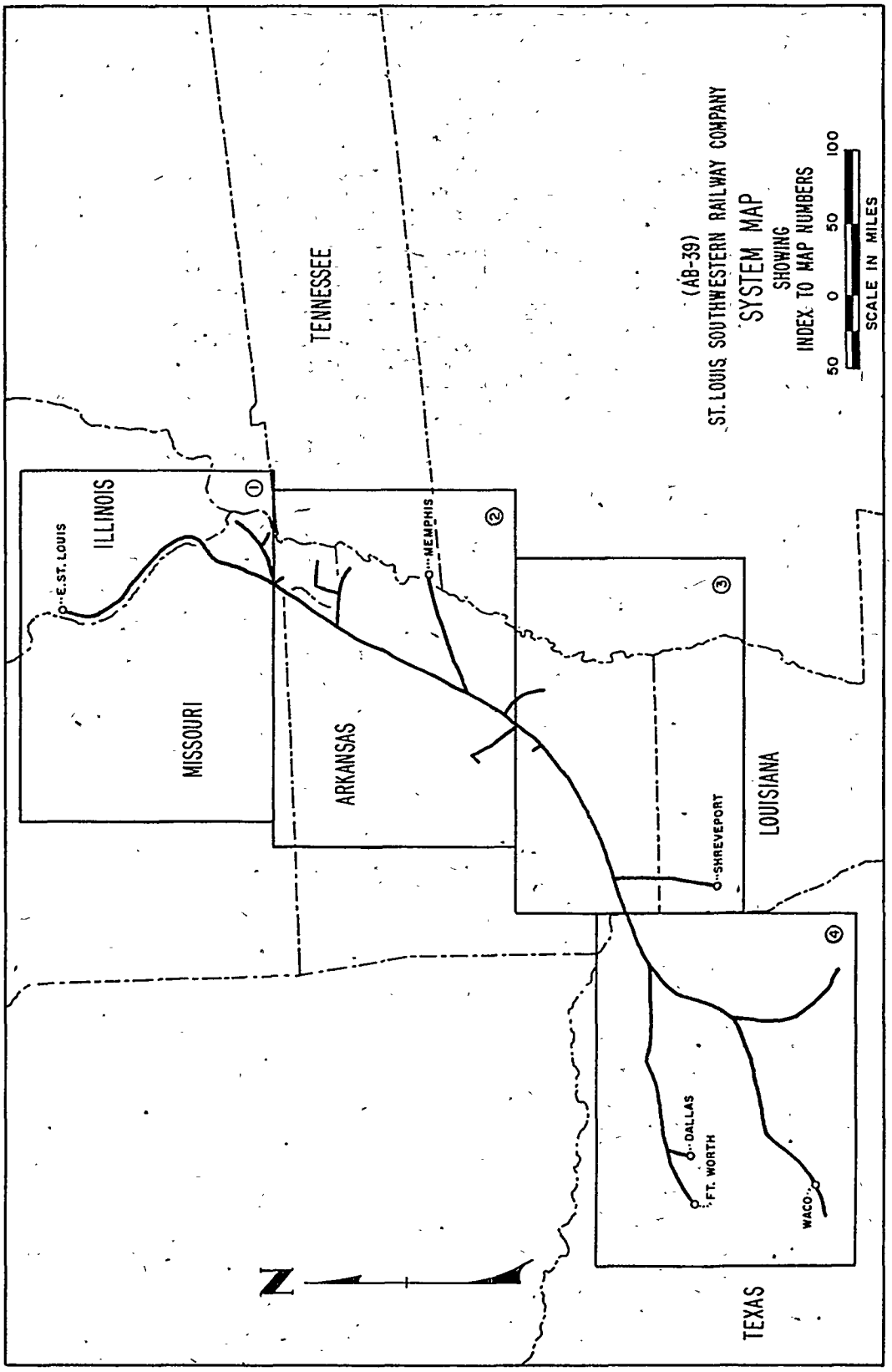
ST. LOUIS SOUTHWESTERN RAILWAY CO.

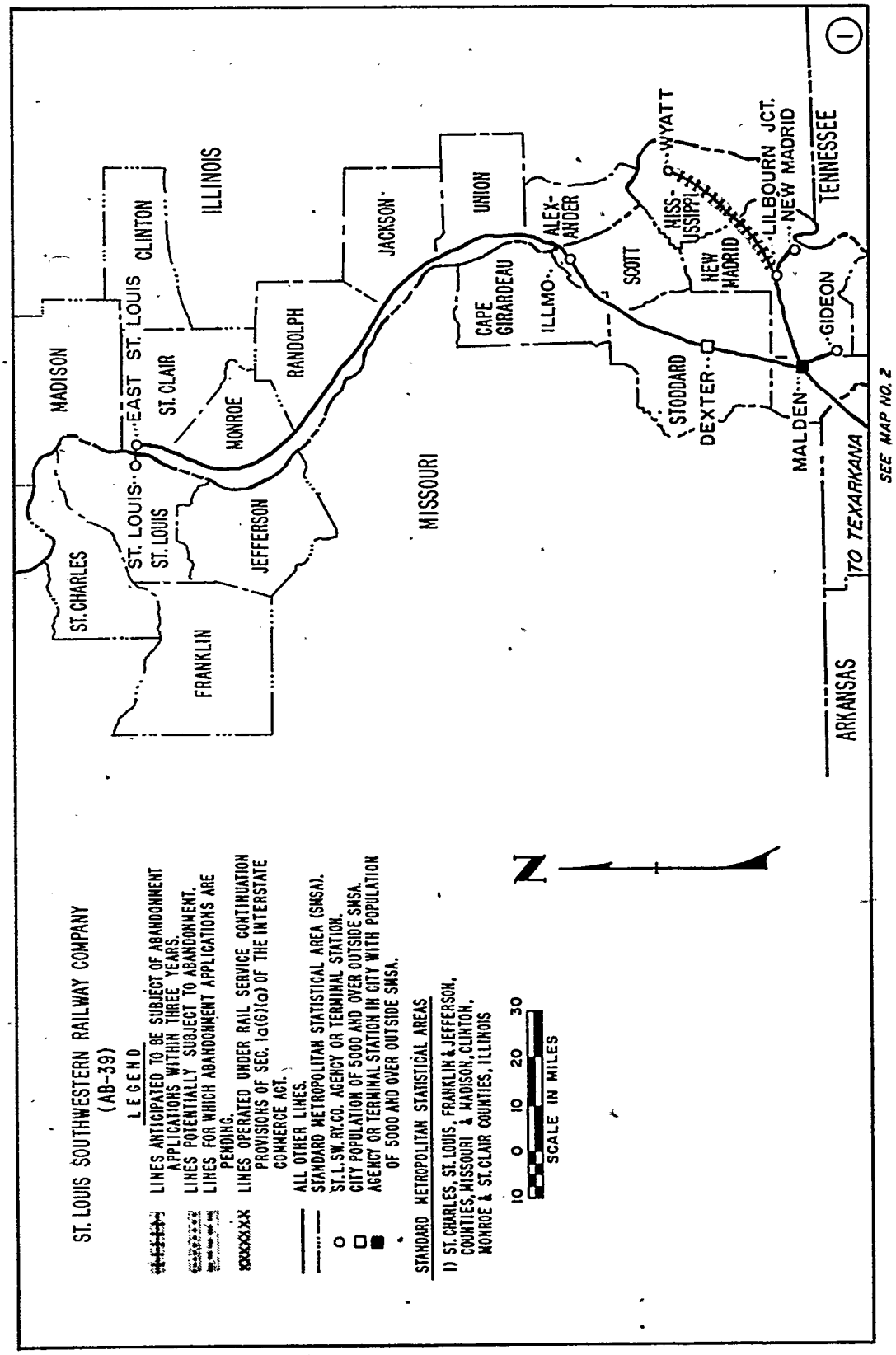
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the St. Louis Southwestern Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB-39 (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 39 (SDM).

ROBERT L. OSWALD,
Secretary.


(AB-39)
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
SYSTEM MAP
SHOWING
INDEX TO MAP NUMBERS
SCALE IN MILES
50 0 50 100
TENNESSEE
ILLINOIS
MISSOURI
ARKANSAS
LOUISIANA
TEXAS
E. ST. LOUIS
MEMPHIS
SHREVEPORT
DALLAS
FT. WORTH
WACO
N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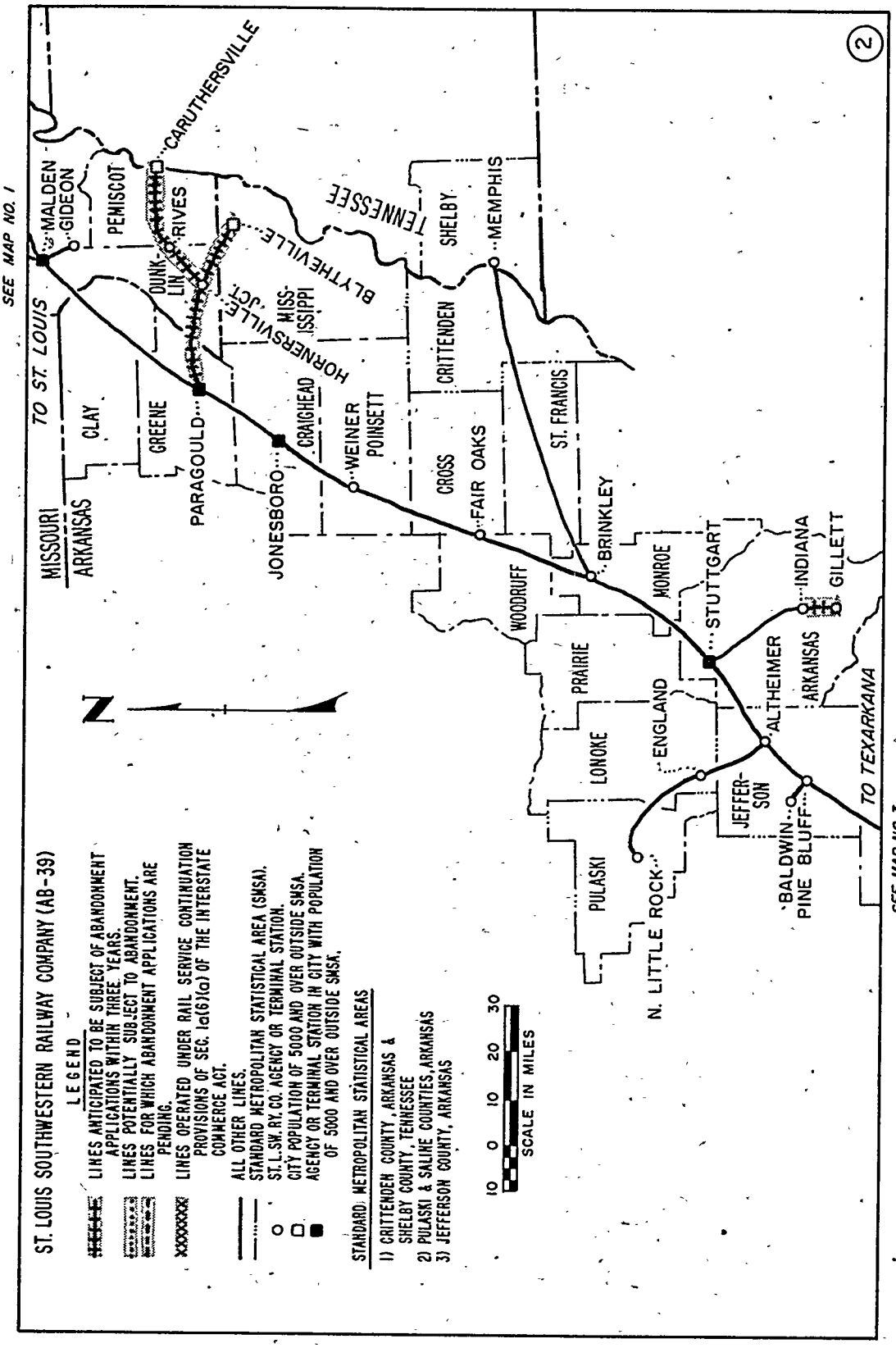
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) ST. CHARLES, ST. LOUIS, FRANKLIN & JEFFERSON, COUNTIES, MISSOURI & MADISON, CLINTON, MONROE & ST. CLAIR COUNTIES, ILLINOIS
10 0 10 20 30
SCALE IN MILES
N
MADISON
ST. CHARLES
FRANKLIN
ST. LOUIS
EAST ST. LOUIS
ST. CLAIR
CLINTON
ILLINOIS
MONROE
JEFFERSON
RANDOLPH
JACKSON
MISSOURI
UNION
CAPE GIRARDEAU
ALEX-ANDER
ILLMO
SCOTT
STODDARD
DEXTER
NEW MADRID
MISS-ISSIPPI
WYATT
LILBOURN JCT.
NEW MADRID
MALDEN
GIDEON
TENNESSEE
ARKANSAS
TO TEXARKANA
SEE MAP NO. 2
1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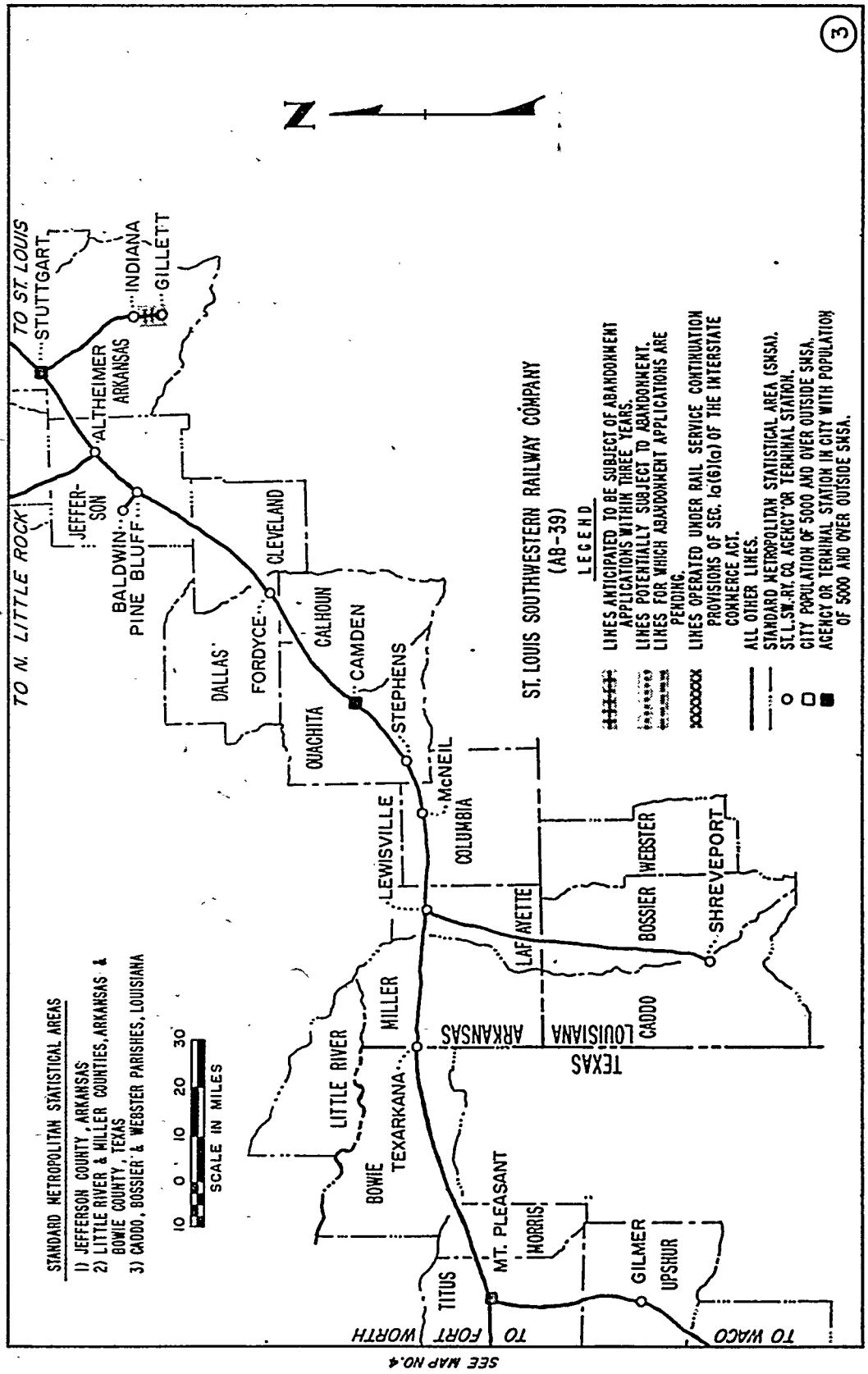
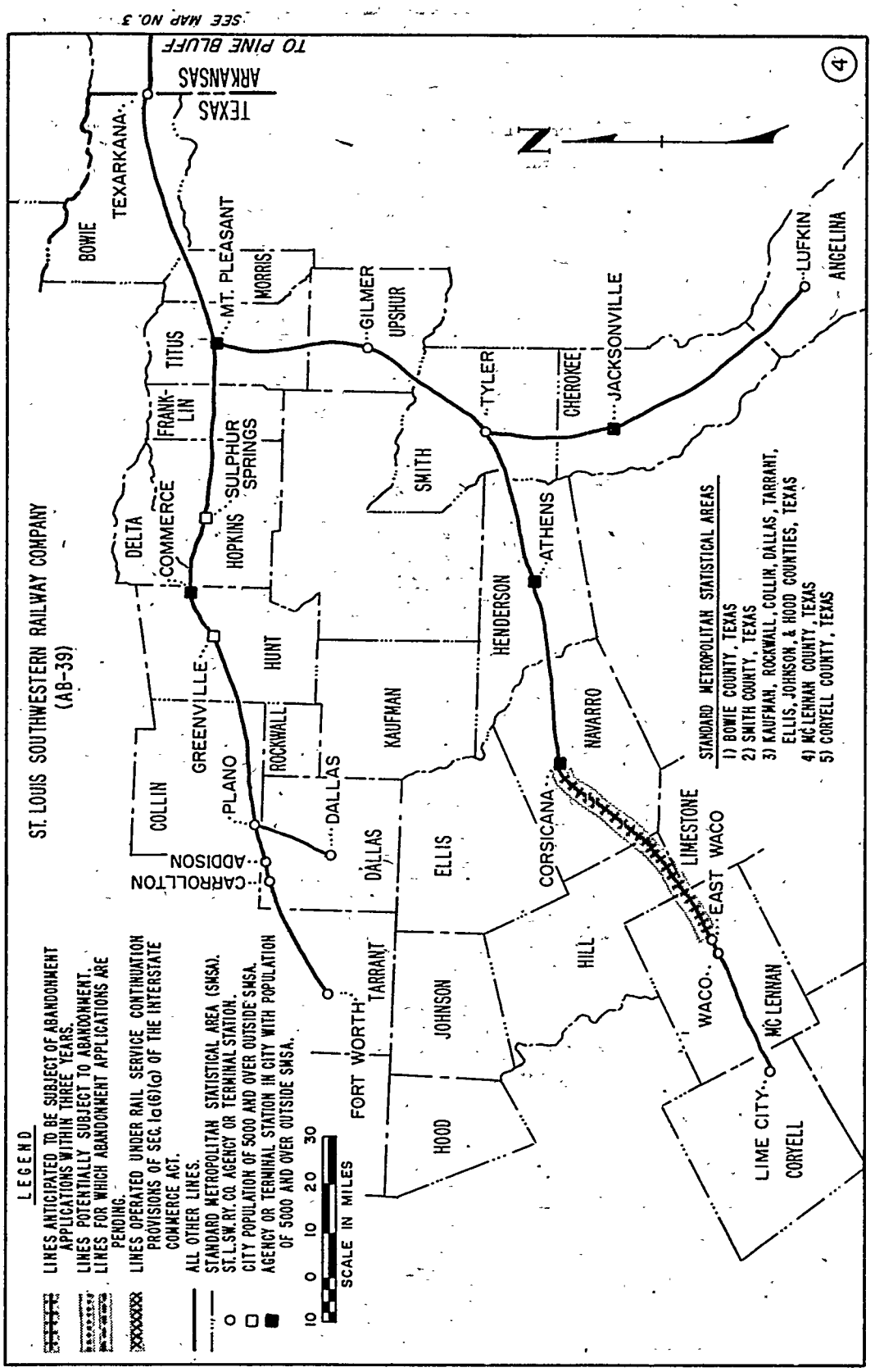
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
ST. L.-SW. RY. CO. 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.
STANDARD METROPOLITAN STATISTICAL AREAS
1) CRITTENDEN COUNTY, ARKANSAS & SHELBY COUNTY, TENNESSEE
2) PULASKI & SALINE COUNTIES, ARKANSAS
3) JEFFERSON COUNTY, ARKANSAS
SCALE IN MILES
10 0 10 20 30
N
SEE MAP NO. 1
TO ST. LOUIS
MISSOURI
ARKANSAS
CLAY
GREENE
PARAGOULD
JONESBORO
CRAIGHEAD
WEINER
POINSETT
HORNERSVILLE JCT.
BLYTHEVILLE
MISSISSIPPI
DUNKLIN
RIVES
CARUTHERSVILLE
MALDEN
GIDEON
PEMISCOT
TENNESSEE
SHELBY
MEMPHIS
CRITTENDEN
CROSS
FAIR OAKS
ST. FRANCIS
BRINKLEY
WOODRUFF
MONROE
STUTTGART
INDIANA
GILLETT
PRAIRIE
ENGLAND
ALTHEIMER
ARKANSAS
LONOKE
JEFFERSON
PULASKI
N. LITTLE ROCK
BALDWIN
PINE BLUFF
TO TEXARKANA
SEE MAP NO. 3
2


3
N
TO N. LITTLE ROCK
SEE MAP NO. 2
TO ST. LOUIS
STUTTGART
INDIANA
GILLETT
ALTHEIMER
ARKANSAS
JEFFER-SON
BALDWIN
PINE BLUFF
CLEVELAND
DALLAS
FORDYCE
CALHOUN
CAMDEN
OUACHITA
STEPHENS
McNEIL
COLUMBIA
LEWISVILLE
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
(AB-39)
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).
ST.L.SW.RY. CO. 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.
WEBSTER
SHREVEPORT
BOSSIER
LAFAYETTE
CADDO
LOUISIANA
ARKANSAS
TEXAS
MILLER
LITTLE RIVER
TEXARKANA
BOWIE
MT. PLEASANT
MORRIS
TITUS
GILMER
UPSHUR
TO FORT WORTH
TO WACO
SEE MAP NO. 4
STANDARD METROPOLITAN STATISTICAL AREAS
1) JEFFERSON COUNTY, ARKANSAS
2) LITTLE RIVER & MILLER COUNTIES, ARKANSAS & BOWIE COUNTY, TEXAS
3) CADDO, BOSSIER & WEBSTER PARISHES, LOUISIANA
10 0 10 20 30
SCALE IN MILES


ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
(AB-39)
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).
ST.L.SW.RY.CO. 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.
SCALE IN MILES
10 0 10 20 30
STANDARD METROPOLITAN STATISTICAL AREAS
1) BOWIE COUNTY, TEXAS
2) SMITH COUNTY, TEXAS
3) KAUFMAN, ROCKWALL, COLLIN, DALLAS, TARRANT, ELLIS, JOHNSON, & HOOD COUNTIES, TEXAS
4) McLENNAN COUNTY, TEXAS
5) CORYELL COUNTY, TEXAS
N
4
TO PINE BLUFF
SEE MAP NO. 3
TEXAS
ARKANSAS
TEXARKANA
BOWIE
MT. PLEASANT
MORRIS
TITUS
FRANKLIN
SULPHUR SPRINGS
HOPKINS
DELTA
COMMERCE
GREENVILLE
HUNT
ROCKWALL
COLLIN
PLANO
DALLAS
ADDISON
CARROLLTON
GILMER
UPSHUR
SMITH
TYLER
CHEROKEE
JACKSONVILLE
LUFKIN
ANGELINA
HENDERSON
ATHENS
KAUFMAN
NAVARRO
CORSICANA
LIMESTONE
EAST WACO
WACO
McLENNAN
LIME CITY
CORYELL
ELLIS
HILL
DALLAS
TARRANT
FORT WORTH
JOHNSON
HOOD

ST. LOUIS SOUTHWESTERN RAILWAY 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 St. Louis Southwestern Railway Company as shown on the system diagram map:

Lines Anticipated to be Subject of Abandonment Applications Within Three Years

MISSOURI

(1) (a) Designation of Line: Wyatt Branch.

(b) States in which Located: Missouri.

(c) Counties in which Located: New Madrid, Mississippi.

(d) Milepost Locations: 5.52 at or near Wyatt to 37.21 at or near Lilbourn Junction.

(e) Agency or Terminal Stations on the Line: Wyatt (milepost 5.9).

(Map No. 1)

(2) (a) Designation of Line: Caruthersville Branch.

(b) States in which Located: Missouri.

(c) Counties in which Located: Dunklin, Pemiscot.

(d) Milepost Locations: "W-99.04 at or near Hornersville Junction to "R"-98.95 at or near Caruthersville.

(e) Agency or Terminal Stations on the Line: Rives (milepost "W"-93.4), Caruthersville (milepost "R"-98.95).

(Map No. 2)

(3) (a) Designation of Line: Blytheville Branch.

(b) States in which Located: Arkansas, Missouri.

(c) Counties in which Located: Greene, Mississippi (in Arkansas); Dunklin, (in Missouri).

(d) Milepost Locations: "P"-103.0 at or near Paragould to "P"-140.33 at or near Blytheville.

(e) Agency or Terminal Stations on the Line: Hornersville Junction (milepost "P"-125.8), Blytheville (milepost "P"-140.1).

(Map No. 2)

ARKANSAS

(1) (a) Designation of Line: Blytheville Branch.

(b) States in which Located: Arkansas, Missouri.

(c) Counties in which Located: Greene, Mississippi (in Arkansas); Dunklin, (in Missouri).

(d) Milepost Locations: "P"-103.0 at or near Paragould to "P"-140.33 at or near Blytheville.

(e) Agency or Terminal Stations on the Line: Hornersville Junction (milepost "P"-125.8), Blytheville (milepost "P"-140.1).

(Map No. 2)

(2) (a) Designation of Line: Gillett Branch.

(b) States in which Located: Arkansas.

(c) Counties in which Located: Arkansas.

(d) Milepost Locations: 262.0 at or near Indiana to 268.10 at or near Gillett.

(e) Agency or Terminal Stations on the Line: Gillett (milepost 267.8).

(Map No. 2 and 3)

TEXAS

(1) (a) Designation of Line: Gatesville Branch.

(b) States in which Located: Texas.

(c) Counties in which Located: McClennan, Hill, Limestone, Navarro.

(d) Milepost Locations: 621.70 at or near Corsicana to 674.06 at or near East Waco.

(e) Agency or Terminal Stations on the Line: None.

(Map No. 4)

[FR Doc.77-13946 Filed 5-17-77;8:45 am]

[AB 170 (SDM)]

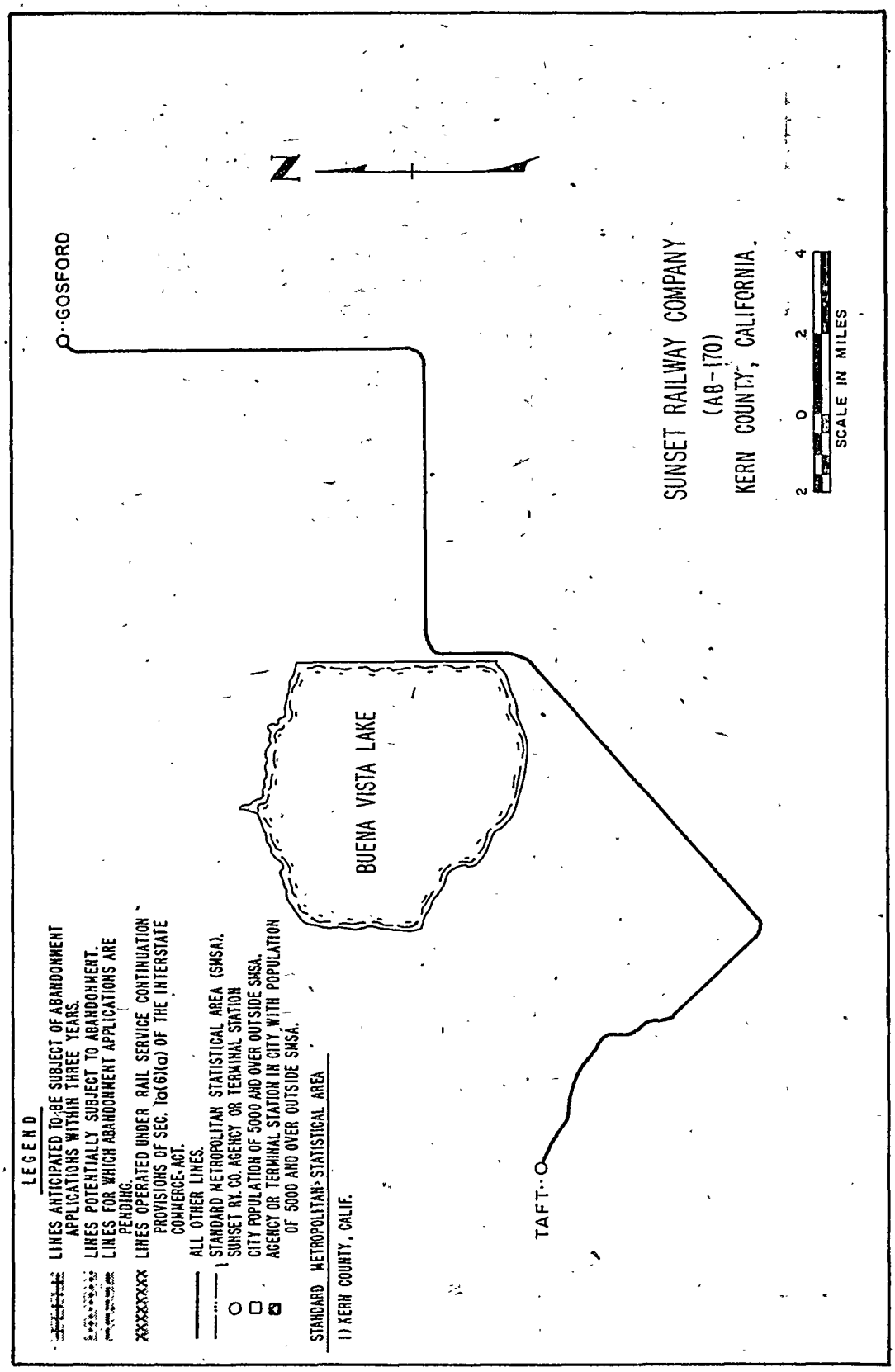
SUNSET RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Sunset Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB-170 (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-170 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13943 Filed 5-17-77;8:45 am]

[AB 154 (SDM)]

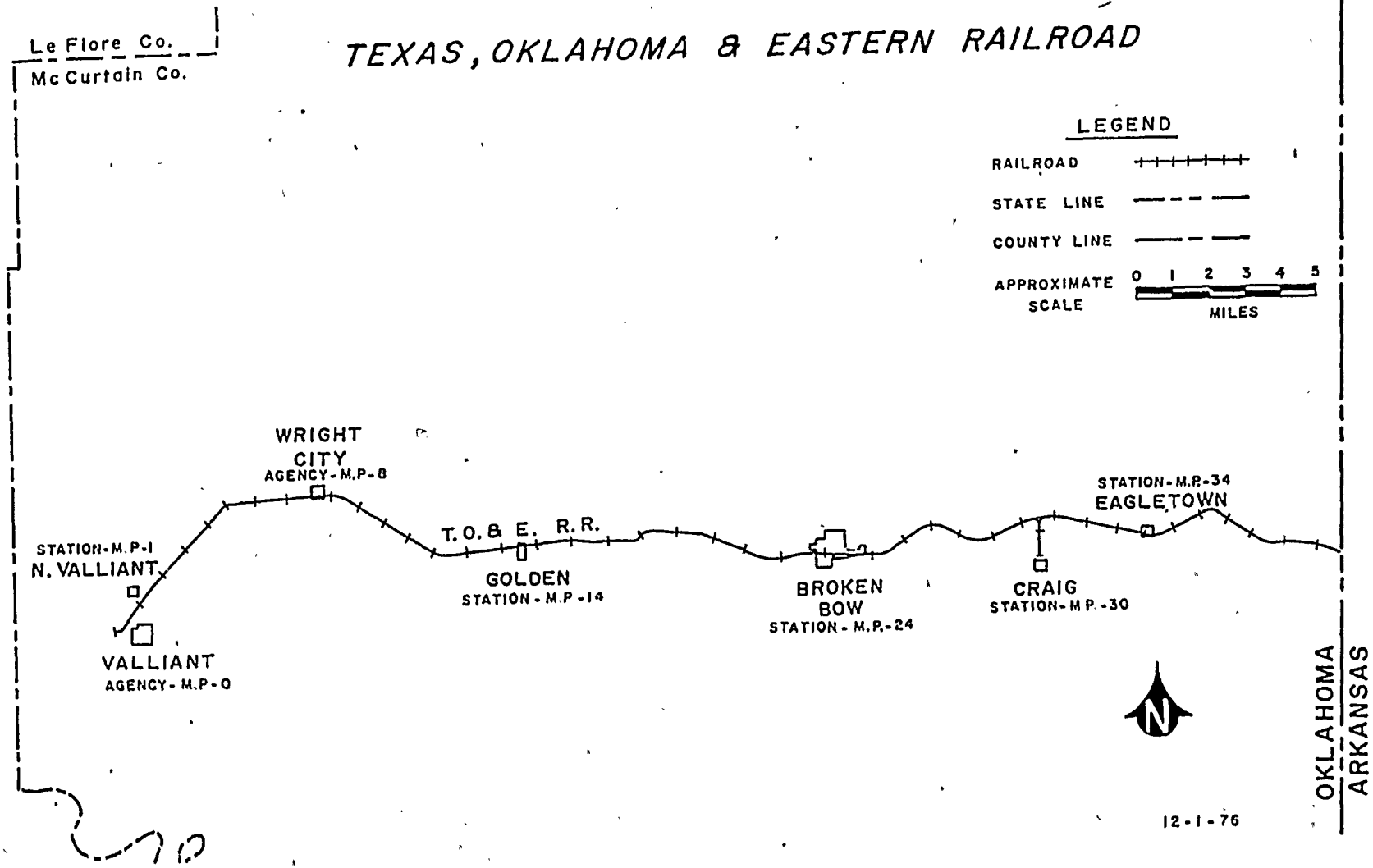
TEXAS, OKLAHOMA & EASTERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Texas, Oklahoma & Eastern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB-154 (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-154 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13037 Filed 5-17-77;8:45 am]

[AB 183 (SDM)]

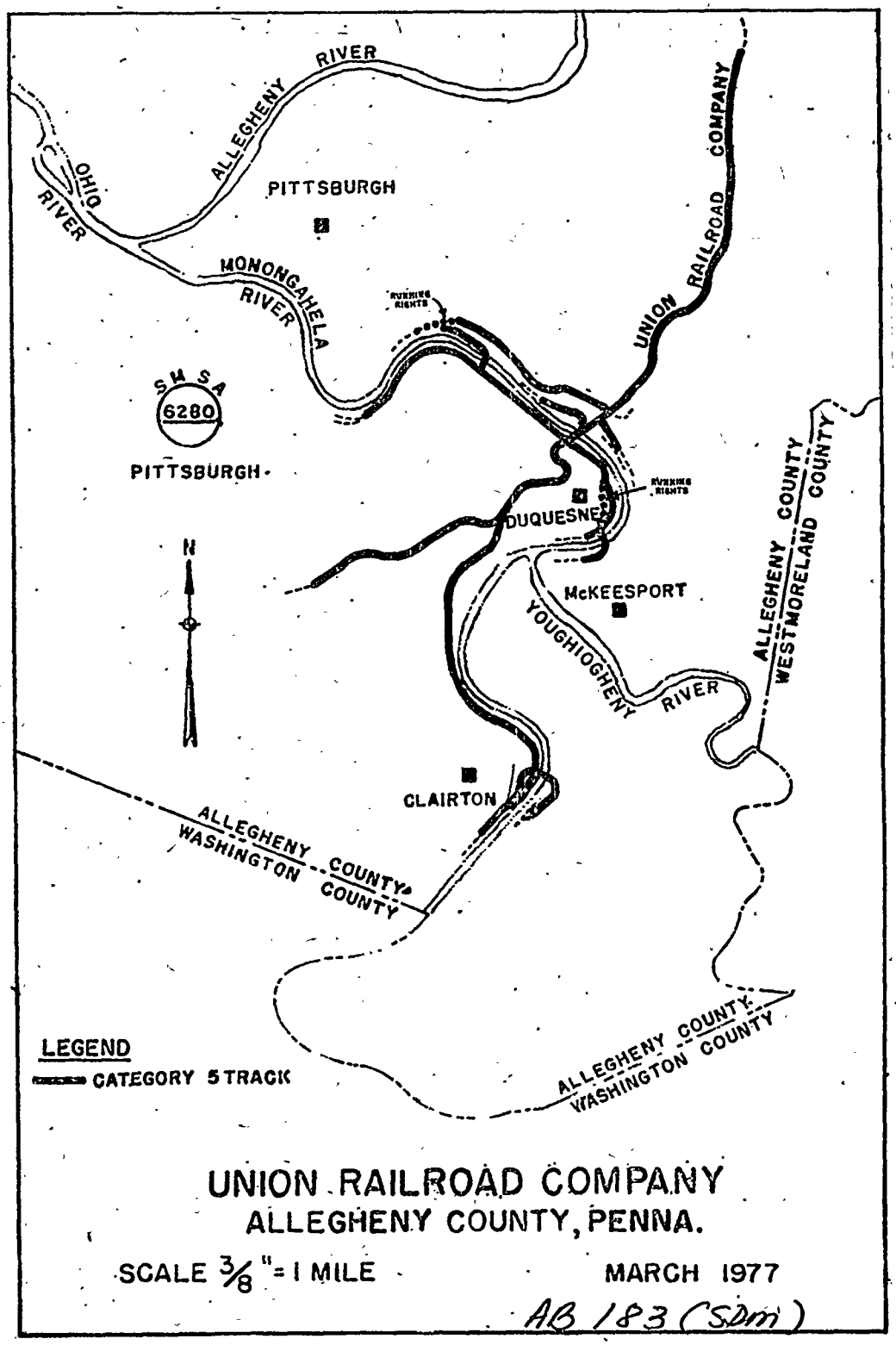
UNION RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Union Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 183 (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 183 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13942 Filed 5-17-77;8:45 am]

[AB 17 (SDM)]

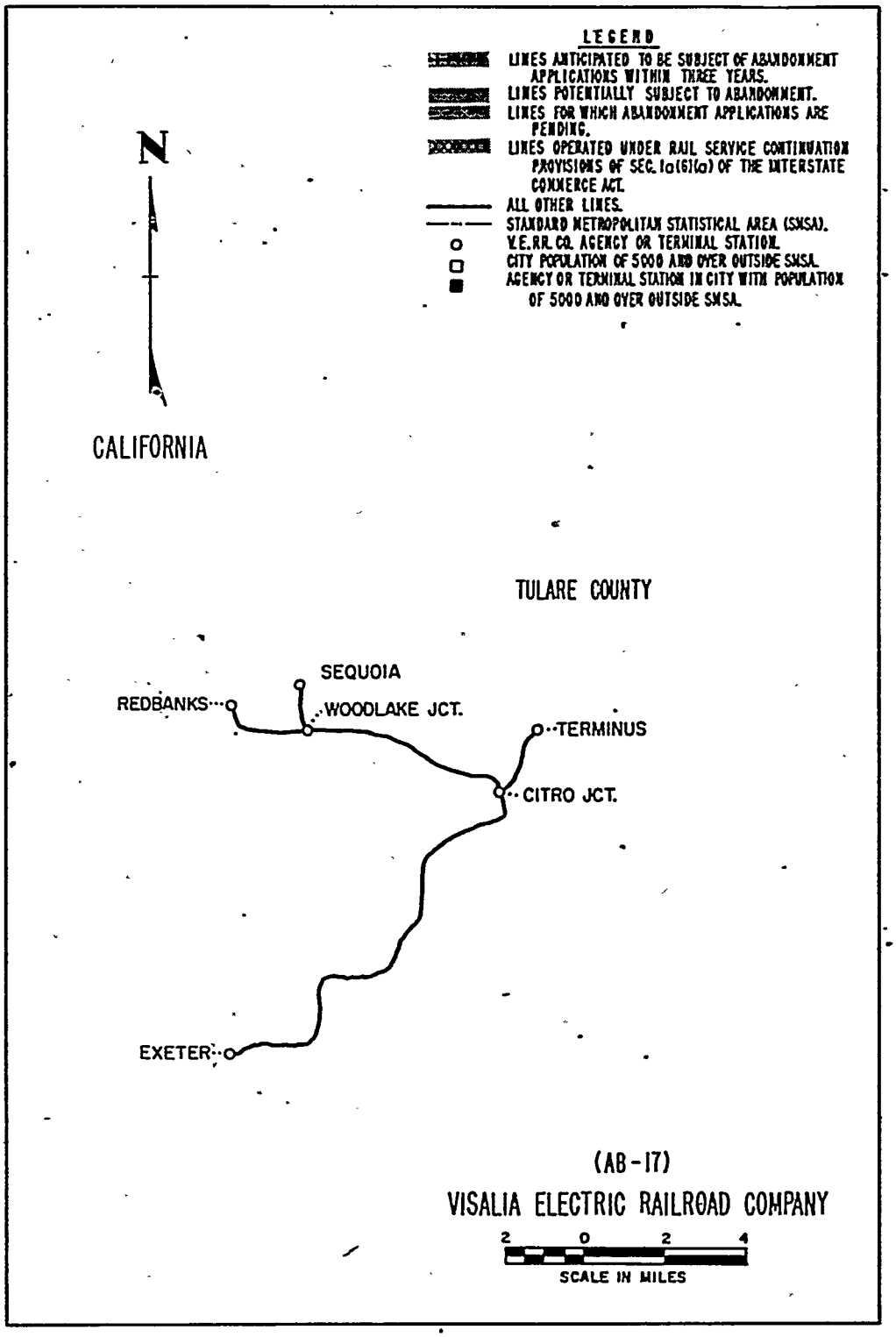
VISALIA ELECTRIC RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulation, Part 1121.22, that the Visalia Electric Railroad Company, has filed with the Commission its colorcoded system diagram map in docket No. AB-17 (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-17 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13947 Filed 5-17-77;8:45 am]

[AB 105 (SDM)]

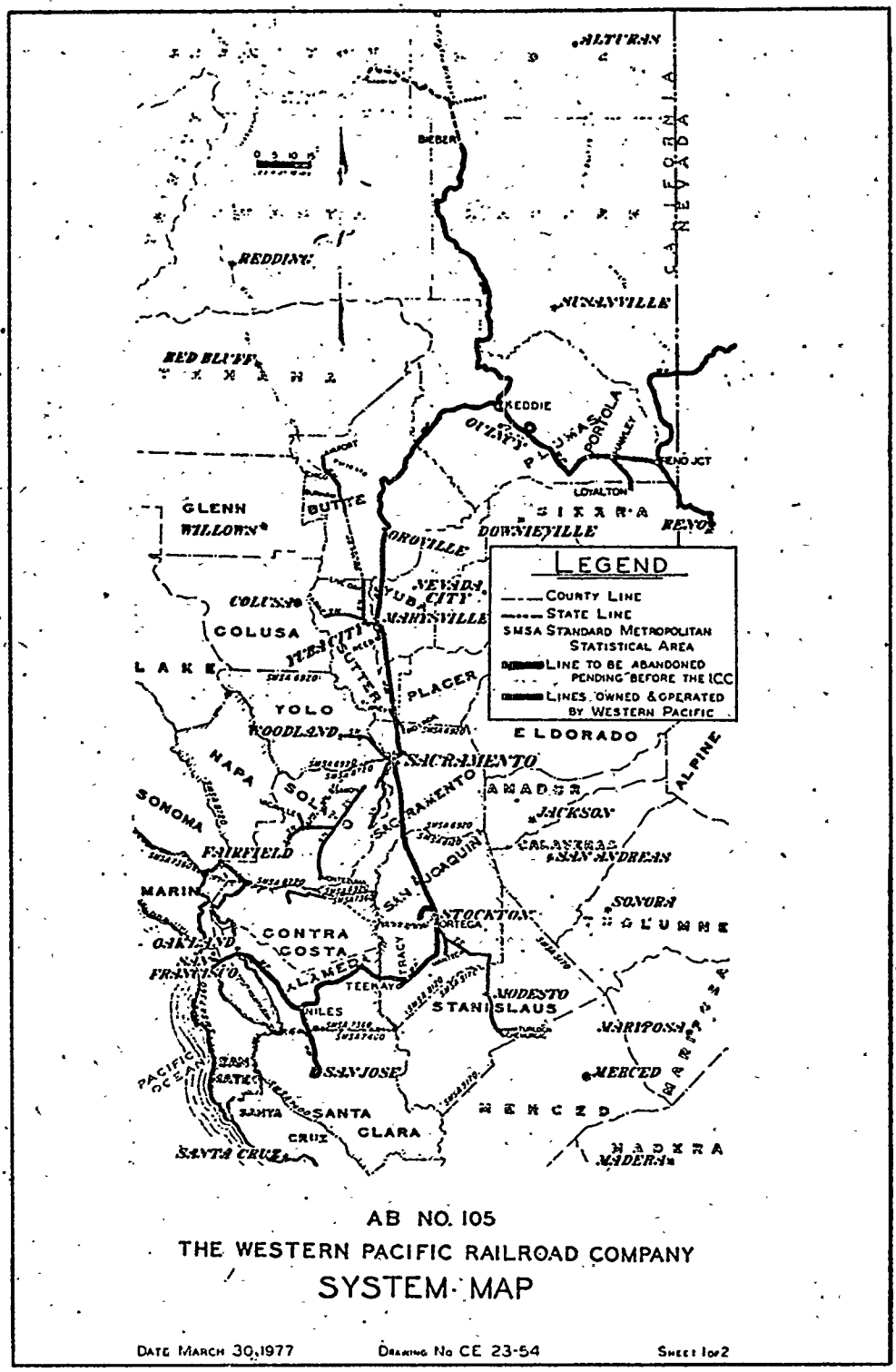
WESTERN PACIFIC RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Western Pacific Railroad Company, has filed with the Commission its color-coded system diagram map in docket in AB 105 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 2, 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 105 (SDM).

ROBERT L. OSWALD,
Secretary.

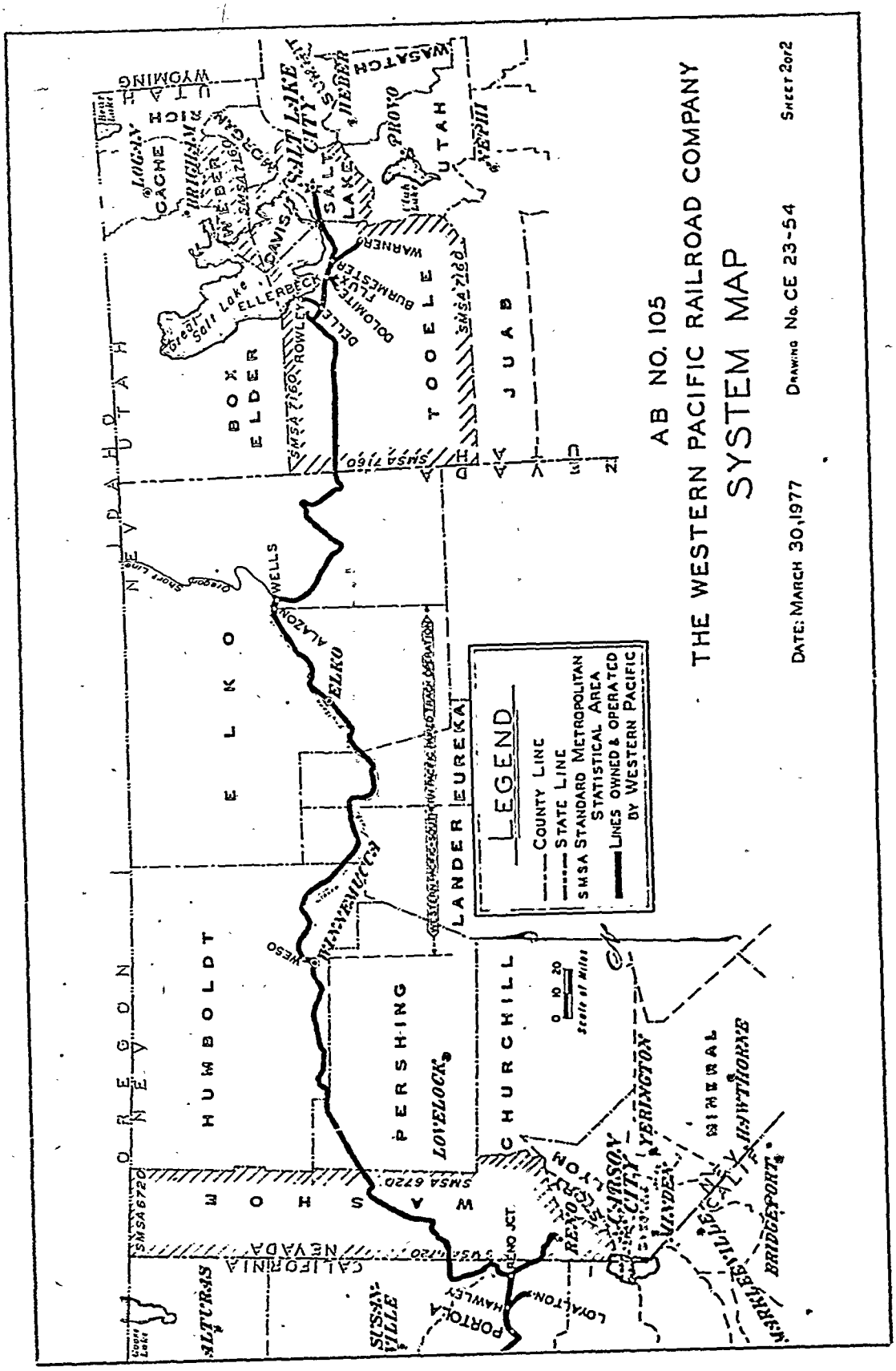


AB NO. 105

THE WESTERN PACIFIC RAILROAD COMPANY

SYSTEM MAP

DATE MARCH 30, 1977 DRAWING NO CE 23-54 SHEET 1 OF 2


AB NO. 105
THE WESTERN PACIFIC RAILROAD COMPANY
SYSTEM MAP
DATE: MARCH 30, 1977
DRAWING No. CE 23-54
SHEET 2 of 2
LEGEND
COUNTY LINE
STATE LINE
SMSA STANDARD METROPOLITAN STATISTICAL AREA
LINES OWNED & OPERATED BY WESTERN PACIFIC
SCALE IN MILES
0 10 20
UTAH
WYOMING
NEVADA
CALIFORNIA
OREGON
IDAHO
LOGAN
CACHE
RICH
BRIGHAM
OGDEN
SALT LAKE CITY
SALT LAKE
DAVIS
WEBER
MORGAN
WASATCH
PROVO
UTAH
WARNER
BURMESTER
FLUX
DOLOMITE
ROWLEY
ELLERBECK
Great Salt Lake
BOX ELDER
TOOELE
JUAB
DUGWAY
WELLS
ELKO
ALAZON
ELKO
EUREKA
LANDER
WEST WEND
HUMBOLDT
PERSHING
LOVELOCK
CHURCHILL
WINNEMUCCA
SHOSHONE
RENO JCT.
RENO
SPARKS
RENO
CARSON CITY
YERINGTON
MINDEN
MINERAL
HAWTHORNE
BRIDGEPORT
ALTURAS
SUSANVILLE
PORTOLA
HAWLEY
LOVELOCK
SMSA 6720
SMSA 7160
SMSA 7120
SMSA 7120

AB-105

THE WESTERN PACIFIC RAILROAD COMPANY
SYSTEM MAP

DESCRIPTION OF LINES IN CATEGORIES 1-3
(49 CFR 1121.21)

In compliance with requirements of 49 CFR 1121.21 The Western Pacific Railroad Company herein provides a description of the only line identified on its system diagram map as falling within categories 1 through 3 [49 CFR 1121.20(b) (1) through (3)]. Western Pacific's only such line falls within category three [49, CFR 1121.20(b)(3)]; a description thereof is as follows:

1. The line is designated as the North Channel Line.
2. The line is located within the State of California.
3. The line is located within the County of San Joaquin.
4. The line extends in a westerly direction from Milepost 96.18 near Engineer's Station 169+85.97 on the Western Pacific Main Line at its junction with the North Channel Line to Milepost 5.892 which is the terminus of the North Channel Line being a distance of 5.892 miles.
5. There are no agency or terminal stations on the line.

As indicated by its category designation, application for authority to abandon this line was filed with the Interstate Commerce Commission on July 12, 1976, is currently pending before the Commission and has been assigned Docket No. AB-105.

Dated: April 22, 1977.

EUGENE J. TOLER,
Attorney for the Western Pacific Railroad Company.

[FR Doc.77-13939 Filed 5-17-77;8:45 am]

[AB 182 (SDM)]

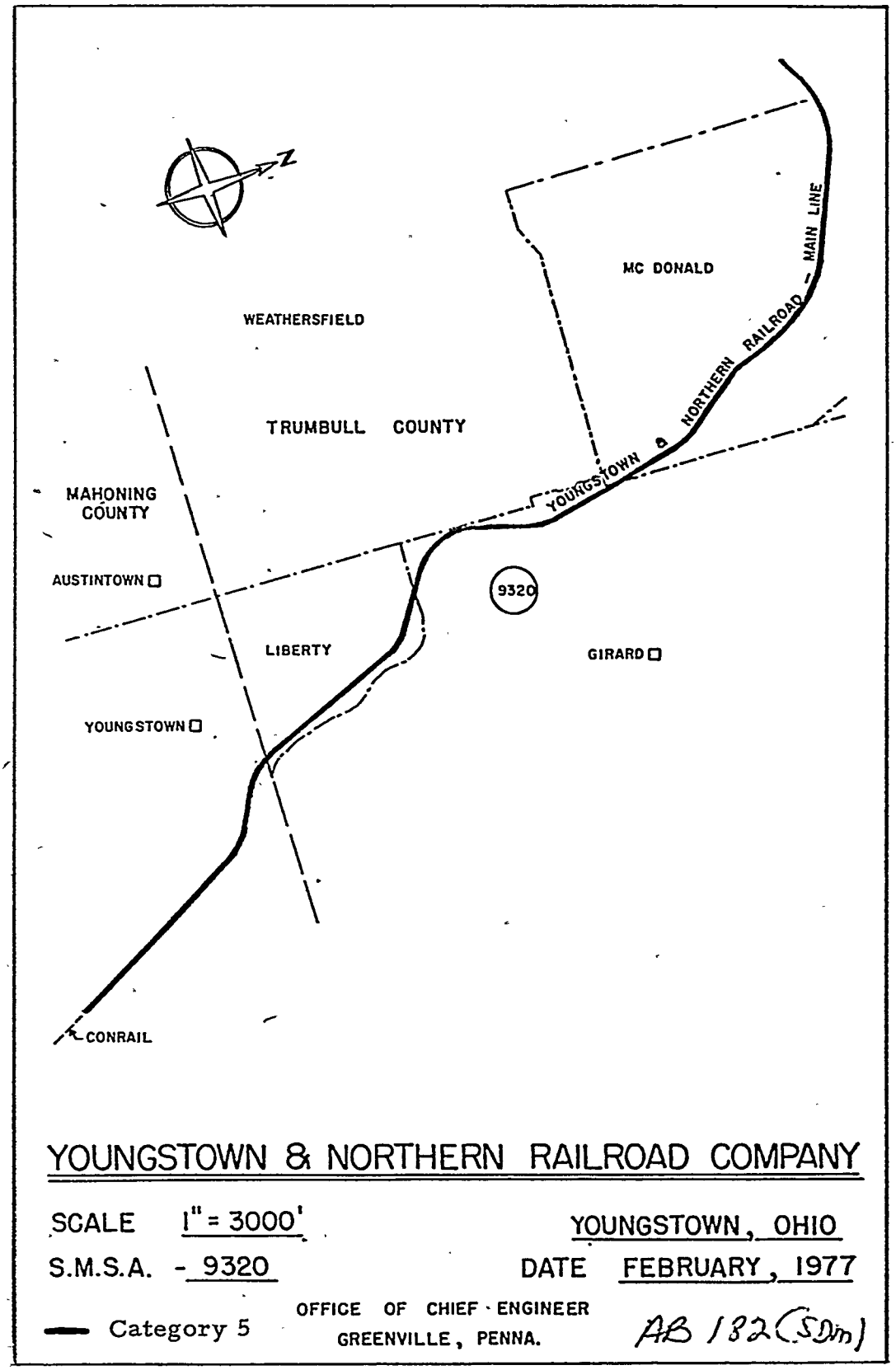
YOUNGSTOWN & NORTHERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Youngstown & Northern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 182 (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-182 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13941 Filed 5-17-77;8:45 am]